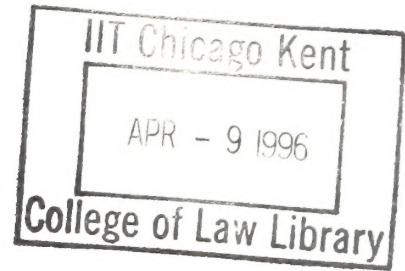


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1996

Illinois Register

Rules of Governmental Agencies

Volume 20, Issue 14 — April 05, 1996

Pages 5104 - 5404

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017

published by
George H. Ryan
Secretary of State



Printed on recycled paper

TABLE OF CONTENTS
April 5, 1996 Volume 20, Issue 14

PROPOSED RULES

AGING, DEPARTMENT ON

 Community Care Program

 89 Ill. Adm. Code 2405104

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

 Pay Plan

 80 Ill. Adm. Code 3105106

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

 Background Checks

 89 Ill. Adm. Code 3855133

 Licensing Standards For Child Care Institutions And Maternity Centers

 89 Ill. Adm. Code 4045160

 Licensing Standards For Child Welfare Agencies

 89 Ill. Adm. Code 4015173

 Licensing Standards For Day Care Agencies

 89 Ill. Adm. Code 4055184

 Licensing Standards For Day Care Homes

 89 Ill. Adm. Code 4065197

 Licensing Standards For Foster Family Homes

 89 Ill. Adm. Code 4025221

 Licensing Standards For Group Day Care Homes

 89 Ill. Adm. Code 4085236

 Licensing Standards For Group Homes

 89 Ill. Adm. Code 4035261

 Licensing Standards For Youth Emergency Shelters

 89 Ill. Adm. Code 4105271

INSURANCE, DEPARTMENT OF

 Construction And Filing Of Accident And Health Forms

 50 Ill. Adm. Code 20015284

REHABILITATION SERVICES, DEPARTMENT OF

 Eligibility

 89 Ill. Adm. Code 6825296

 Illinois Children's School And Rehabilitation Center's Respite Program

 89 Ill. Adm. Code 787, Repeal of5300

REVENUE, DEPARTMENT OF

 Motor Fuel Tax

 86 Ill. Adm. Code 5005311

 Tobacco Products Tax Act Of 1995

 86 Ill. Adm. Code 6605317

BANKS AND TRUST COMPANIES, COMMISSIONER OF

Hearings For Removal Of Directors, Officers, Employees Or Agents Of A
State Bank

38 Ill. Adm. Code 9005326

ADOPTED RULES

COMMERCE COMMISSION, ILLINOIS

Standards Of Service Applicable To 9-1-1 Emergency Systems (General
Order 207)

83 Ill. Adm. Code 725, Repeal of5333

Standards Of Service Applicable To 9-1-1 Emergency Systems (General
Order 207)

83 Ill. Adm. Code 7255335

REVENUE, DEPARTMENT OF

Retailers' Occupation Tax

86 Ill. Adm. Code 1305366

Service Occupation Tax

86 Ill. Adm. Code 1405379

EMERGENCY RULES

AGING, DEPARTMENT ON

Community Care Program

89 Ill. Adm. Code 2405388

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received5398

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

96-093 Chicago Business Opportunity Days5400

96-094 Croatian-American Association Day5400

96-095 Women's History Month5401

96-096 Fritz Campbell Day5401

96-097 Illinois Crime Victims' Rights Week5401

96-098 A Magic Night In The Secret Garden5402

96-099 Bangladesh Day5402

96-100 Student-Athlete Day5403

96-101 Veterinary Medical Education Week5403

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 19, 1996 - Issue 16: Through	March 31, 1996
July 19, 1996 - Issue 29: Through	June 30, 1996
October 18, 1996 - Issue 42: Through	September 30, 1996
January 17, 1997 - Issue 3: Through	December 31, 1996 (Annual)



The table of contents of the *Illinois Register* is posted on the Internet by the Monday prior to the publication date. The table is located at the address as follows:

<http://www.sos.state.il.us>

REGISTER PUBLICATION SCHEDULE 1996

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1995	Dec. 26, 1995	1	Jan. 5, 1996	June 25, 1996	July 2, 1996	28	July 12, 1996
Dec. 26, 1995	Jan. 2, 1996	2	Jan. 12, 1996	July 2, 1996	July 9, 1996	29	July 19, 1996
Jan. 2, 1996	Jan. 9, 1996	3	Jan. 19, 1996	July 9, 1996	July 16, 1996	30	July 26, 1996
Jan. 9, 1996	Jan. 16, 1996	4	Jan. 26, 1996	July 16, 1996	July 23, 1996	31	Aug. 2, 1996
Jan. 16, 1996	Jan. 23, 1996	5	Feb. 2, 1996	July 23, 1996	July 30, 1996	32	Aug. 9, 1996
Jan. 23, 1996	Jan. 30, 1996	6	Feb. 9, 1996	July 30, 1996	Aug. 6, 1996	33	Aug. 16, 1996
Jan. 30, 1996	Feb. 6, 1996	7	Feb. 16, 1996	Aug. 6, 1996	Aug. 13, 1996	34	Aug. 23, 1996
Feb. 6, 1996	Feb. 13, 1996	8	Feb. 23, 1996	Aug. 13, 1996	Aug. 20, 1996	35	Aug. 30, 1996
Feb. 13, 1996	Feb. 20, 1996	9	Mar. 1, 1996	Aug. 20, 1996	Aug. 27, 1996	36	Sept. 6, 1996
Feb. 20, 1996	Feb. 27, 1996	10	Mar. 8, 1996	Aug. 27, 1996	Sept. 3, 1996	37	Sept. 13, 1996
Feb. 27, 1996	Mar. 5, 1996	11	Mar. 15, 1996	Sept. 3, 1996	Sept. 10, 1996	38	Sept. 20, 1996
Mar. 5, 1996	Mar. 12, 1996	12	Mar. 22, 1996	Sept. 10, 1996	Sept. 17, 1996	39	Sept. 27, 1996
Mar. 12, 1996	Mar. 19, 1996	13	Mar. 29, 1996	Sept. 17, 1996	Sept. 24, 1996	40	Oct. 4, 1996
Mar. 19, 1996	Mar. 26, 1996	14	Apr. 5, 1996	Sept. 24, 1996	Oct. 1, 1996	41	Oct. 11, 1996
Mar. 26, 1996	Apr. 2, 1996	15	Apr. 12, 1996	Oct. 1, 1996	Oct. 8, 1996	42	Oct. 18, 1996
Apr. 2, 1996	Apr. 9, 1996	16	Apr. 19, 1996	Oct. 8, 1996	Oct. 15, 1996	43	Oct. 25, 1996
Apr. 9, 1996	Apr. 16, 1996	17	Apr. 26, 1996	Oct. 15, 1996	Oct. 22, 1996	44	Nov. 1, 1996
Apr. 16, 1996	Apr. 23, 1996	18	May 3, 1996	Oct. 22, 1996	Oct. 29, 1996	45	Nov. 8, 1996
Apr. 23, 1996	Apr. 30, 1996	19	May 10, 1996	Oct. 29, 1996	Nov. 4, 1996 (Mon.)	46	Nov. 15, 1996
Apr. 30, 1996	May 7, 1996	20	May 17, 1996	Nov. 4, 1996	Nov. 12, 1996	47	Nov. 22, 1996
May 7, 1996	May 14, 1996	21	May 24, 1996	Nov. 12, 1996	Nov. 19, 1996	48	Dec. 2, 1996 (Mon.)
May 14, 1996	May 21, 1996	22	May 31, 1996	Nov. 19, 1996	Nov. 26, 1996	49	Dec. 6, 1996
May 21, 1996	May 28, 1996	23	June 7, 1996	Nov. 26, 1996	Dec. 3, 1996	50	Dec. 13, 1996
May 28, 1996	June 4, 1996	24	June 14, 1996	Dec. 3, 1996	Dec. 10, 1996	51	Dec. 20, 1996
June 4, 1996	June 11, 1996	25	June 21, 1996	Dec. 10, 1996	Dec. 17, 1996	52	Dec. 27, 1996
June 11, 1996	June 18, 1996	26	June 28, 1996	Dec. 17, 1996	Dec. 23, 1996 (Mon.)	1	Jan. 3, 1997
June 18, 1996	June 25, 1996	27	July 5, 1996	Dec. 23, 1996	Dec. 31, 1996	2	Jan. 10, 1997

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Community Care Program

- 2) Code Citation: 89 Ill. Adm. Code 240

- 3) Section Numbers:
240.810 Proposed Action:
Amendment

- 4) Statutory Authority: 20 ILCS 105/4.01(11) and 5.02

- 5) A Complete Description of the Subjects and Issues Involved: Public Act 87-470, effective September 15, 1991, mandated the Illinois Department on Aging to apply the Illinois Department of Public Aid's (IDPA) spousal impoverishment provisions to the Community Care Program (CCP). Effective July 1, 1995, the Department released program instruction memoranda implementing the prevention of spousal impoverishment provisions. As the Department proceeded to implement these instructions, several problematic issues were discovered. Specific issues revealed that certain CCP clients and applicants had no alternative but to enter a nursing home if they were not eligible for CCP services under the prevention of spousal impoverishment guidelines. Such decisions are contrary to the Department's mandate to prevent or delay institutionalization of Illinois' elderly population.

The elimination of certain CCP criteria to meet the prevention of spousal impoverishment provisions will protect the health, safety and welfare of both applicants/clients and their families. In addition, this will also allow lower cost community and home based services to meet their needs, rather than compelling them to be otherwise inappropriately institutionalized.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? Yes

- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
240.1010	Amendment	February 16, 1996 (20 Ill. Reg. 2627)

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their written

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENT

comments concerning this rulemaking, within 45 days after the date of this issue of the *Illinois Register*, to:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue #100
Springfield, IL 62701-1789
Attention: Assets
(217) 785-3346

The rule amendments may have an impact on small businesses. In accordance with Sections 1-20 and 5-20 of the Illinois Administrative Procedure Act, any small business may present their comments to Ms. Pamela Balmer at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on the rule amendment shall indicate their status as such, in writing, in their comments.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Case Coordination Units

- B) Reporting, bookkeeping or other procedures required for compliance: Reporting, bookkeeping and other procedures commensurate with those established under the prevention of spousal impoverishment standards of the Community Care Program.

- C) Types of professional skills necessary for compliance: Professional skills commensurate with case management requirements under the Community Care Program.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment which appears in this issue of the *Illinois Register* on page 5390

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Pay Plan2) Code Citation: 80 Ill. Adm. Code 3103) Section Numbers: Proposed Action:

310.50	Amended
310.70	Amended
310.100	Amended
310.280	Amended
310.480	Amended
310.490	Amended
310.500	Amended
310. Appendix A	Amended

4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].5) A Complete Description of the Subjects and Issues Involved: In Section 310.50, Definitions, a definition for "In-hiring Rate" is being included which states: "An in-hiring rate is a minimum rate/step for a class which is above the normal minimum of the range, as established by the approval of the Director of the Department of Central Management Services after a review of competitive market starting rates for similar classes."

The definition for "Salary Range" is being revised to read: "The dollar value represented by Steps 1c through 7 of a grade assigned to a class title."

In Section 310.70, Conversion of Base Salary to Daily or Hourly Equivalents, in subsection (a), which pertains to the methods of computation pertaining to payment for vacation and overtime, the Section is being updated to include sick leave with the clarification that compensatory sick leave is for sick leave earned and not taken since January 1984, and is to be liquidated at one half rate.

In Section 310.100, Other Pay Provisions, in subsection (f), which pertains to the circumstances in which a lump sum payment will be provided, it is identified that employees who have accrued sick leave and unused compensatory overtime as well as accrued vacation will receive a lump sum payment upon separation from employment. Further explanation clarifies that compensatory sick leave is for sick leave earned and not taken since January 1984, and is to be liquidated at one half rate.

In Section 310.280, Designated Rate, the following updates reflect changes already approved by the Governor.

In the Department of Commerce and Community Affairs, an Economic Development Representative II position is being added with the annual

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

salary of \$50,400.

Also in the Department of Commerce and Community Affairs, a Private Secretary II is being included with the annual salary of \$43,164. And, the Public Service Administrator's annual salary is being amended to reflect a salary change from \$63,432 to \$65,592.

In the Department of Insurance, the Senior Public Service Administrator's annual salary is being amended to reflect a rate change from \$90,648 to \$94,274.

In the Department of Mental Health and Development Disabilities, a Medical Administrator II, Option D, position is being added with the annual salary of \$142,000.

A Public Service Administrator position with the annual salary of \$69,744 is being added for the Department of Revenue.

In Section 310.480, Decreases in Pay, the opening paragraph is being revised to make an inclusion that if an employee is reduced to a lower class, the above shall provide that the employee's salary may be placed within the "Merit Pay Zone" of the lower class.

In Section 310.490, Other Pay Provisions, in subsection (f), it is being clarified that employees who have accrued sick leave and unused compensatory overtime as well as accrued vacation will receive a lump sum payment upon separation from employment. Further explanation clarifies that compensatory sick leave is for sick leave earned and not taken since January 1984, and is to be liquidated at one half rate.

In Section 310.500, Definitions, the definition for "Maximum Rate of Pay" is being modified to read as follows: "The highest rate of pay below the "Merit Pay Zone Limit" for a particular salary range."

A definition for "Merit Pay Zone Limit" is being included which states: "The highest rate of pay for a particular salary range within the Merit Compensation Salary Schedule."

In Section 310. Appendix A, Table F, RC-019 (Teamsters, Local #25), the Department of Conservation's name has changed to "Department of Natural Resources".

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
310.230	Amended	20 Ill. Reg. 4060 (March 8, 1996)
310.Appendix A, Table AA	Amended	20 Ill. Reg. 4091 (March 15, 1996)
310.100	Amended	20 Ill. Reg. 4491 (March 22, 1996)
310.110	Amended	20 Ill. Reg. 4491 (March 22, 1996)
310.130	Amended	20 Ill. Reg. 4491 (March 22, 1996)
310.230	Amended	20 Ill. Reg. 4491 (March 22, 1996)
310.240	Amended	20 Ill. Reg. 4491 (March 22, 1996)
310.495	Amended	20 Ill. Reg. 4491 (March 22, 1996)
310.Appendix B	Amended	20 Ill. Reg. 4491 (March 22, 1996)
310.Appendix G	Amended	20 Ill. Reg. 4491 (March 22, 1996)

- 10) Statement of Statewide Policy Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, IL 62706
(217) 782-5601

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit Corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996. However, the projected amendments to Sections 310.70 and 310.100(f) did not appear in any Regulatory Agenda. The revision pertains to the liquidation of accrued sick leave upon separation from employment which is the same projected revision to Section 310.490 which was published in the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

January 1996 Regulatory Agenda.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section
310.20 Policy and Responsibilities
310.30 Jurisdiction
310.40 Pay Schedules
310.50 Definitions
310.60 Conversion of Base Salary to Pay Period Units
310.70 Conversion of Base Salary to Daily or Hourly Equivalents
310.80 Increases in Pay
310.90 Decreases in Pay
310.100 Other Pay Provisions
310.110 Implementation of Pay Plan Changes for Fiscal Year 1996
310.120 Interpretation and Application of Pay Plan
310.130 Effective Date
310.140 Reinstitution of Within Grade Salary Increases
310.150 Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section
310.205 Introduction
310.210 Prevailing Rate
310.220 Negotiated Rate
310.230 Part-Time Daily or Hourly Special Services Rate
310.240 Hourly Rate
310.250 Member, Patient and Inmate Rate
310.260 Trainee Rate
310.270 Legislated and Contracted Rate
310.280 Designated Rate
310.290 Out-of-State or Foreign Service Rate
310.300 Educator Schedule for RC-063 and HR-010
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Section
310.410 Jurisdiction
310.420 Objectives
310.430 Responsibilities
310.440 Merit Compensation Salary Schedule
310.450 Procedures for Determining Annual Merit Increases
310.455 Intermittent Merit Increase
310.456 Merit Zone
310.460 Other Pay Increases
310.470 Adjustment
310.480 Decreases in Pay
310.490 Other Pay Provisions
310.495 Public Service Administrator Class Series
310.500 Definitions
310.510 Conversion of Base Salary to Pay Period Units
310.520 Conversion of Base Salary to Daily or Hourly Equivalents
310.530 Implementation
310.540 Annual Merit Increase Guidechart for Fiscal Year 1995
310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A

Negotiated Rates of Pay

TABLE A HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA HR-916 (Department of Natural Resources, Teamsters)
TABLE B NR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE C RC-069 (Firefighters, AFSCME)
TABLE D HR-001 (Teamsters Local #726)
TABLE E RC-020 (Teamsters Local #330)
TABLE F RC-019 (Teamsters Local #25)
TABLE G RC-045 (Automotive Mechanics, IFPE)
TABLE H RC-006 (Corrections Employees, AFSCME)
TABLE I RC-009 (Institutional Employees, AFSCME)
TABLE J RC-014 (Clerical Employees, AFSCME)
TABLE K RC-023 (Registered Nurses, INA)
TABLE L RC-008 (Boilermakers)
TABLE M RC-110 (Conservation Police Lodge)
TABLE N RC-010 (Professional Legal Unit, AFSCME)
TABLE O RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q RC-033 (Meat Inspectors, IFPE)
TABLE R RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T HR-010 (Teachers of Deaf, IFT)
TABLE U HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V CU-500 (Corrections, Meet and Confer Employees)
TABLE W RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 1996
APPENDIX C	Medical Administrator Rates for Fiscal Year 1995
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 1995
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Public Service Administrator Class Series Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; emergency amendment at 11 Ill. Reg.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

3363, effective February 3, 1987; emergency amendment at 11 Ill. Reg. 4388, effective February 27, 1987; emergency amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; emergency amendment at 11 Ill. Reg. 15273, effective September 1, 1987; emergency amendment at 11 Ill. Reg. 17919, effective October 19, 1987; emergency amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; emergency amendment at 12 Ill. Reg. 3811, effective January 27, 1988; emergency amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 8135, effective April 22, 1988; emergency amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; emergency amendment at 12 Ill. Reg. 20584, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; emergency amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; emergency amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; emergency amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; emergency amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 18719, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; emergency amendment at 14 Ill. Reg. 18854, effective November 13, 1990; emergency amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: NARRATIVE

Section 310.50 Definitions

The following are definitions of certain terms and are for purposes of clarification as they affect the Schedule of Salary Grades (Appendix B) and Schedule of Rates (Subpart B), only. Subpart C of this Part contains the administrative features of the Merit Compensation System.

"Adjustment in Salary" -- A change in salary rate occasioned by a previously committed error or oversight, or required in the best interest of the State as defined in Subpart A, Sections 310.80 and 310.90, of this Part.

"Base Salary" -- A dollar amount of pay specifically designated in the Schedule of Salary Grades (Appendix B) or Schedule of Rates (Subpart B). Base salary does not include overtime pay or shift differential pay or deductions for time not worked.

"Comparable Classes" -- Two or more classes that are in the same salary grade.

"Creditable Service" -- All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last salary increase which was at least equivalent to a full step. A new creditable service date will follow an increase of a step or more except for the following actions:

Superior performance increase.
A reevaluation resulting in a salary increase less than a step in the former salary grade.
Reallocation resulting in a salary increase less than a step increase in the former salary grade.
Adjustments as provided for in Section 310.80(f) of this Part, "which are approved to correct errors or oversights." (A new creditable service date will follow Section 310.80(f) adjustments in the best interest of the agency, unless the Director of Central Management Services determines such changes to be inequitable.)

"Demotion" -- The assignment for cause of an employee to a vacant position in a class in a lower salary grade than the former class.

"Differential" -- The additional compensation added to the base salary of an employee resulting from conditions of employment imposed on him/her during normal schedule of work.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

"Entrance Salary" -- The initial base salary assigned to an employee on entering state service.

"In-hiring Rate" -- An in-hiring rate is a minimum rate/step for a class which is above the normal minimum of the range, as established by the approval from the Director of the Department of Central Management Services after a review of competitive market starting rates for similar classes.

"Promotion" -- The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher salary grade than the former class.

"Reallocation" -- The change in the classification of an existing position resulting from significant changes in assigned duties and responsibilities.

"Reevaluation" -- The assignment of a different salary grade to a class based upon change in relation to other classes or to the labor market.

"Salary Range" -- The dollar value represented by Steps 1C ± through 7 of a grade assigned to a class title.

"Satisfactory Performance Increase" -- An upward revision in the base salary from one designated step to the next higher step in the salary grade for that class as a result of having served the required amount of time at the former rate with not less than a satisfactory level of competence. (Satisfactory level of competence shall mean work, the level of which in the opinion of the agency head, is above that typified by the marginal employee.)

"Superior Performance" -- Performance characterized by work results substantially above a satisfactory level.

"Transfer" -- The assignment of an employee to a vacant position having the same salary grade.

"Work Year" -- That period of time determined by the agency and filed with the Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300 of the Department of Central Management Services rules.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 310.70 Conversion of Base Salary to Daily or Hourly Equivalents

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

For purposes of determining the hourly or daily equivalent of a base salary, the following methods of computation shall apply:

- a) Payment for Vacation, Sick Leave* and Unused Compensatory Overtime Credits -- A daily (hourly) equivalent shall be determined by converting the base salary to an annual salary and dividing the result by the number of days (hours) usually worked in a year, according to the agency's normal work schedule as filed with the Department of Central Management Services.

*This compensatory sick leave is for sick leave earned and not taken since January 1, 1984. It is to be liquidated at one half rate.

- b) Payment for Fractional Part of a Specific Pay Period -- In those instances in which an employee is to be compensated at a rate that represents a number of work days (hours) that is less than the actual number of work days (hours) in the pay period, the formula to be used is: monthly rate divided by two equals pay period rate; pay period rate divided by days (hours) scheduled equals daily (hourly) rate; daily (hourly) rate multiplied by days (hours) worked equals gross amount earned.

- c) Part-Time Work -- Part-time employees, whose base salary is other than an hourly or daily basis, shall be paid on a daily rate basis which will be computed from annual rates of salary and the total number of work days in the year.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 310.100 Other Pay Provisions

- a) Transfer -- Upon the assignment of an employee to a vacant position in a class with the same salary grade as the class for the position being vacated, the employee's base salary will not be changed. Upon separation from a position of a given class and subsequent appointment to a position in the same salary grade, no increase in salary will be given.

- b) Entrance Salary -- Normally upon original entry to state service, an employee's base salary will be at Step 1a of the salary grade.

- 1) Qualifications above Minimum Requirements --
 - A) If a candidate possesses directly related training and experience in excess of the minimum requirements of the class specification, the entrance salary may be up to Step 3 as determined by the employing agency. The salary offered should not provide more than a 10% increase over the candidate's current salary.

- B) Such qualifications above the minimum requirements must possess documented support for higher than the Step 1a entrance salary. An entrance salary higher than Step 3 must have prior approval from the Director of Central Management Services.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 2) Area Differential -- For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which such positions are established, a higher entrance step may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate shall be advanced to the new rate.
- 3) Upon the geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment effective the first day of the month following date of approval.
- c) Differential and Overtime Pay -- An eligible employee may have an amount added to his/her base salary for a given pay period for work performed which is in excess of the normal requirements for the position and work schedule, as follows:

- 1) Shift Differential Pay -- An employee may be paid an amount in addition to his/her base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

- 2) Overtime Pay --

- A) The Director of Central Management Services will maintain a list of titles whose incumbents are eligible for overtime at a time and one-half rate for all hours actually worked in excess of the normal work schedule in any given work week. Overtime shall be paid in cash only unless an employee requests compensatory time off at the time and one-half rate. Such request shall be considered and granted or denied by the agency in light of their operating needs. The employee shall make his/her choice known to the agency not later than the end of the work week in which the overtime was earned. If such compensatory time request is granted it shall be taken within the fiscal year it was earned at a time convenient to the employee and consistent with the operating needs of the agency. Accrued compensatory time not used by the end of the fiscal year in which it was earned shall be liquidated and paid in cash at the rate it was earned.

- B) A list will also be maintained by the Director of Central Management Services of titles whose incumbents are eligible for straight-time overtime. Employees in these classes of positions who are assigned and perform work in excess of the normal work schedule as established by the agency shall be compensated at a straight-time rate on either a cash or

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

compensatory time-off basis, as determined by the agency in light of their operating needs, for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. If compensatory time is not liquidated within the fiscal year during which it is accrued, it must be liquidated at the end of the fiscal year in cash at the employee's rate of pay in effect at the time of liquidation.

- 3) Incentive Pay -- An employee may be paid an amount in addition to his/her base salary for work performed in excess of the normal work standard as determined by agency management. The additional compensation shall be at a wage rate and in a manner approved by the Director of the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

- 4) Extra Duty Pay -- An employee may be paid an amount in addition to his/her base salary for service in addition to the regular work schedule on a special work assignment. Additional compensation will be at a rate and in a manner approved by the Director of the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

- d) Part-Time Work -- Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily basis which will be computed from annual rates of salary and the total number of work days in the year.

- e) Out-of-State Assignment -- Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

- f) Lump Sum Payment -- Shall be provided for accrued vacation, sick leave* and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary lay-off (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum cannot be given in these transactions. Method of computation is explained in Section 310.70(a) of this Part.

AGENCY NOTE -- The method to be used in computing the lump sum payment

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

k) Bi-Lingual Pay --

- 1) Effective October 1, 1994, individual positions whose job descriptions require the use of sign language or a second language shall receive an additional 4% or \$75.00 per month whichever is greater in addition to the employee's base rate.
- 2) Effective July 1, 1995, individual positions whose job descriptions require the use of sign language or a second language shall receive an additional 5% or \$100.00 per month whichever is greater in addition to the employee's base rate.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: SCHEDULE OF RATES

Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Children & Family Services

Private Secretary II
(Pos. No. 34202-16-00-000-03-30) Annual Salary
43,452

Department of Commerce & Community Affairs

Economic Development Representative II
(Pos. No. 12932-42-35-140-30-01) Annual Salary
50,400

Private Secretary II
(Pos. No. 34202-42-00-000-01-02) Annual Salary
43,164

Public Information Officer IV
(Pos. No. 37004-42-00-073-10-01) Annual Salary
50,508
54,552

Public Service Administrator
(Pos. No. 37015-42-35-140-20-01) Annual Salary
63,432
65,592

Department of Insurance

Senior Public Service Administrator
(Pos. No. 40070-14-00-000-00-06) Annual Salary
90,640
94,274

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

for accrued vacation, sick leave* and unused compensatory overtime payment for an incumbent entitled to shift differential during his/her regular work hours will be to use his/her current base salary plus the shift differential pay.

*This compensatory sick leave is for sick leave earned and not taken since January 1, 1984. It is to be liquidated at one half rate.

- g) Salary Treatment Upon Return From Leave -- An employee returning from Military Leave, Peace Corps Leave, Vista Leave, Service-Connected Disability Leave, Leave to accept a Temporary, Emergency, Provisional, Exempt or Trainee position, or Educational Leave will be placed on the step which reflects satisfactory performance increases to which he/she would have been entitled during his/her period of leave. Creditable service date will be maintained. An employee returning to his/her former salary grade from any other leave of over fourteen days will be placed at the step on which he/she was situated prior to his/her leave, and his/her creditable service date will be extended by the duration of the leave.
- h) Salary Treatment Upon Reemployment --

- 1) Upon the reemployment of an employee in a class with the same salary grade as the class for the position held before layoff, the employee will be placed at the same salary step as held at the time of the layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.
- 2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the step in the lower salary grade which provides the base salary nearest in amount to, but less than, the current value of the step held at the time of layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

- i) Reinstatement -- The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary should not provide more than a 10% increase over the candidate's current salary or exceed the current value of the salary step held in the position where previously certified. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.
- j) Extended Service Payment --

- 1) Effective July 1, 1994, the Step 7 rate shall be increased by \$25.00 per month for those employees who have attained ten (10) years of service and have three (3) years of creditable service on Step 7 in the same pay grade.
- 2) Effective July 1, 1994, the Step 7 rate shall be increased by \$50.00 per month for those employees who have attained fifteen (15) years of service and have three (3) years of creditable service on Step 7 in the same pay grade.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Department of Mental Health and Developmental Disabilities

Medical Administrator I, Option D
(Pos. No. 26401-22-59-903-10-02)

Annual Salary
131,250

Medical Administrator II, Option D
(Pos. No. 26403-22-66-260-00-01)

Annual Salary
142,000

Private Secretary II
(Pos. No. 34202-22-15-000-00-01)

Annual Salary
41,004

Department of Natural Resources

Public Service Administrator
(Pos. No. 37015-12-14-220-00-01)

Annual Salary
72,000

Department of Revenue

Public Service Administrator
(Pos. No. 37015-25-12-000-00-01)

Annual Salary
69,744

Department of State Police

Senior Public Service Administrator
(Pos. No. 40070-21-10-000-00-01)

Annual Salary
85,153

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.480 Decreases in Pay

Employees subject to this Part shall have their salaries reduced only as specified below. Any reduction in salary shall become effective on the first day of the month following approval of the reduction. However, if an employee's present salary is in the Merit Pay Zone Limit of his or her present salary range, the salary need not be placed to the maximum of the lower salary range if in excess thereof, but shall be reduced to the Merit Pay Zone Limit in the lower Merit Compensation salary range if in excess thereof.

a) Demotion for Cause to a Lower Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof. An employee demoted during a probationary period following promotion will have the base salary reduced to the same salary the employee received before being promoted and the previous creditable service date will be restored.

b) Position Reallocated to a Lower Class -- If the employee's current

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof. However, as provided in Section 8(a) of the Personnel Code, the pay of an employee whose position is reallocated because of duties and responsibilities after appointment to such position shall not be required to be lowered to a salary within the range for a period of one year.

c) Voluntary Reduction to a Lower Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof. However, an employee who voluntarily requests a reduction during a probationary period following a promotion will have the base salary reduced to the same salary in the lower salary range from which the employee was promoted and the previous creditable service date will be restored.

d) Assignment of a Lower Salary Range to a Class -- If the employee's current base salary is within the lower salary range, it shall be retained without change, but shall be reduced to the maximum of the lower salary range if in excess thereof.

e) Adjustment -- An employee may receive a downward adjustment in base salary for the purpose of correcting a previous error or oversight or when the best interest of the agency or the State of Illinois will be served. Adjustments must have the prior approval of the Director of Central Management Services in writing. In determining the appropriateness of a request for a salary adjustment by an employing agency, the Director of Central Management Services will consider whether the need for the adjustment is substantial, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 310.490 Other Pay Provisions

a) Transfer -- Upon assignment of an employee to a vacant position in a class with the same salary range as the class for the position being vacated, the employee's base salary will not be changed. Upon separation and subsequent appointment to a position in the same salary range, no increase in salary will be given.

b) Entrance Salary -- Normally upon entry to state service, an employee's base salary will be at the minimum salary of the salary range.

1) Qualifications above Minimum Requirements --

A) If a candidate possesses directly related training and experience in excess of the minimum requirements of the class specification, the employing agency may grant an entrance salary up to the midpoint of the first half of the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

salary range; however, this shall not provide more than a 10% increase over the candidate's current salary. Such qualifications above the minimum requirements must possess documented support for higher than the minimum entrance salary.

B) An entrance salary above the middle of the first half of the salary range must have prior approval of the Director of Central Management Services. This approval will be based on consideration of the candidate's training and experience exceeding the requirements of the class, prior salary history, particular staffing requirements of an agency, and labor market influence on recruitment needs.

2) Area Differential -- For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which such positions are established, a higher entrance salary may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate of pay shall be advanced to the new rate.

3) Upon the geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment, effective the first day of the month following the date of assignment.

c) Differential and Overtime Pay -- An eligible employee may have an amount added to the base salary for a given pay period for work performed which is in excess of the normal requirements for the position and work schedule, as follows:

1) Shift Differential Pay -- An employee may be paid an amount in addition to the base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

2) Overtime Pay -- The Director of the Department of Central Management Services shall maintain a listing of classes of positions subject to the provisions of the Merit Compensation System who are eligible for overtime compensation. Classes in salary ranges MC 6 and below are eligible for straight-time overtime unless exceptions are determined by the Director of Central Management Services. Classes above MC 6 may be added to the list when requested by an agency and approved by the Director of Central Management Services in consideration of need of the agency and relationship to eligible titles. Employees in these classes of positions who are assigned and perform work in excess of the normal work schedule as established by the agency shall be

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

compensated at a straight-time rate on either a cash or compensatory time-off basis for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. If compensatory time is not liquidated within the fiscal year during which it is accrued, it must be liquidated at the end of the fiscal year in cash at the employee's rate of pay in effect at the time of liquidation. Any exception to the above provisions for overtime compensation shall be approved by the Director of the Department of Central Management Services. Such exceptions must be requested by the employing agency and will be determined on the basis of the special nature of the situation, a substantial need to provide overtime compensation and a significant number of hours worked beyond the normal work schedule, and will be granted only for a specified time period for which the special situation is expected to exist.

d) Part-Time Work -- Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily rate basis which will be computed from annual rates of salary and the total number of work days in the year.

e) Out-of-State Assignment -- Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.

f) Lump Sum Payment -- Shall be provided for accrued vacation, sick leave* and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary layoff (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum payments cannot be given in these transactions. Methods of computation are explained in Section 310.520(a) of the Merit Compensation System.

AGENCY NOTE: The method to be used in computing lump sum payment for vacation, sick leave* and unused compensatory overtime payment for an incumbent entitled to shift differential during the regular work hours will be to use the current base salary plus the shift differential pay.

*This compensatory sick leave is for sick leave earned and not taken since January 1, 1984. It is to be liquidated at one half rate.

g) Salary Treatment upon Return from Leave -- An employee returning from Military Leave, Peace Corps Leave, Vista Leave, Service-Connected Disability Leave, Leave to accept a Temporary, Emergency, Provisional, Exempt or Trainee position, or Education Leave will have his/her salary established as determined appropriate by the employing agency and approved by the Director of Central Management Services. However,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

in no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range. Creditable service date will be maintained. An employee returning to his/her former salary range from any other leave of over fourteen days will be placed at the salary which the employee received prior to the leave and the creditable service date will be extended by the duration of the leave.

h) Employees in classes which are made subject to the Merit Compensation System after July 1, 1979, will retain their current salary, except that in no event is the resultant salary to be lower than the minimum rate or higher than the maximum rate of the new salary range.

i) Extra Duty Pay -- An employee may be paid an amount in addition to the base salary for services in addition to the regular work schedule on a special assignment. Additional compensation will be at a rate and manner as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

j) Salary Treatment Upon Reemployment --

1) Upon the reemployment of an employee in a class with the same salary range as the class for the position held before layoff, the employee will be placed at the same salary as held at the time of the layoff, and his creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the same salary as held at the time of layoff, except that if this exceeds the maximum of the new range, the employee will be placed at that maximum salary. The creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

k) Reinstatement -- The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary should not provide more than a 10% increase over the candidate's current salary, or exceed the salary rate held in the position where previously certified. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.

l) Bilingual Pay --

1) Effective October 1, 1994, individual positions whose job descriptions require the use of sign language or a second language shall receive an additional 4% or \$75.00 per month, whichever is greater, in addition to the employee's base rate.

2) Effective July 1, 1995, individual positions whose job descriptions require the use of sign language or a second

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

language shall receive an additional 5% or \$100.00 per month, whichever is greater, in addition to the employee's base rate.

m) Clothing or Equipment Allowance -- An employee may be paid an amount in addition to his/her base salary to compensate for clothing or equipment which is required in the performance of assigned duties. The amount will be determined by the Director of the employing agency, and will require approval of the Director of the Department of Central Management Services. The Director of the Department of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 310.500 Definitions

The following are definitions of certain terms and are for purposes of clarification as they affect the Merit Compensation System only.

"Adjustment in Salary" -- A change in salary occasioned by previously committed error or oversight, or required in the best interest of the agency or the state as defined in Sections 310.470 and 310.480 of this Subpart.

"Base Salary" -- The dollar amount of pay of an employee as determined under the provisions of the Merit Compensation System. Base salary does not include overtime pay or shift differential pay or deductions for time not worked.

"Creditable Service" -- All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last in-grade or promotional salary increase. Revaluations and reallocations will not affect the creditable service date. Adjustments (Section 310.470) "for the purpose of correcting a previous error or oversight" shall not result in a change in the creditable service date; however, adjustments in "the best interests of the agency" shall result in a new creditable service date unless the Director of the Department of Central Management Services determines such changes to be inequitable.

"Comparable Classes" -- Two or more classes that are in the same salary range.

"Demotion" -- The assignment for cause of an employee to a vacant position in a class in a lower salary range than the former class.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

"Differential" -- The additional compensation added to the base salary of an employee resulting from conditions of employment imposed during the normal schedule of work.

"Entrance Salary" -- The initial base salary assigned to an employee upon entering State service.

"Intermittent Merit Increase" -- An Intermittent Merit Increase is an increase in monthly base salary, other than the annual merit increase awarded to a merit compensation employee based on performance.

"Maximum Rate of Pay" -- The highest rate of pay below the "Merit Pay Zone Limit" for a particular given salary range.

"Merit Pay Zone Limit" -- The highest rate of pay for a particular salary range within the Merit Compensation Salary Schedule.

"Midpoint Salary" -- The rate of pay that divides the rate range of a salary range into two equal parts.

"Minimum Rate of Pay" -- The lowest rate of pay for a given salary range. Normally the minimum rate of pay represents the salary to be paid a qualified employee who is appointed to a position in a class assigned to a given salary range.

"Performance Review" -- The required review of an employee's on-the-job performance as measured by a specific set of criteria.

"Performance Review Date" -- The date on which the annual merit increase must be made effective if a performance review indicates it is appropriate. Actual performance review procedures are to be completed prior to the effective date of any recommendation to allow sufficient time for the records to be processed by the originating agency.

"Promotion" -- The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher salary range than the former class.

"Reallocation" -- The change in the classification of a position resulting from significant changes in assigned duties and responsibilities.

"Reevaluation" -- The assignment of a different salary range to a class of positions based upon a change in relation to other classes or to the labor market.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

"Salary Range" -- The dollar values encompassed by the minimum and maximum rates of pay of a salary range assigned to a class title.

"Transfer" -- The assignment of an employee to a vacant position in a class having the same salary range.

"Work Year" -- That period of time determined by the agency and filed with the Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300 of the Department of Central Management Services.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Section 310. APPENDIX A Negotiated Rates of Pay

Section 310. TABLE F RC-019 (Teamsters Local #25)

A) Department of Transportation - Division of Highways - Downstate - (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

	July 1, 1994	July 1, 1995	July 1, 1996
	Mo.	Mo.	Mo.
	Hr.	Hr.	Hr.
Bridge Mechanic	3073.00	3193.00	3318.00
Bridge Tender	2872.00	2992.00	3117.00
Deck Hand	2945.00	3065.00	3190.00
Ferry Operator I	3070.00	3190.00	3315.00
Ferry Operator II	3120.00	3240.00	3365.00
Highway Mainten- ance Lead Worker	3169.00	3289.00	3414.00
Highway Mainten- ance Lead Worker (Bridge Crew)	3186.40	3332.50	3483.60
Highway Mainten- ance Lead Worker (Lead Lead Worker)	3219.00	3339.00	3464.00
Highway Maintainer	3040.00	3160.00	3285.00
Highway Maintainer (Bridge Crew)	3057.40	3203.50	3354.60
Janitor I	2747.00	2867.00	2992.00
(including Office of Administration)	2778.00	2898.00	3023.00
Janitor II	2778.00	2898.00	3023.00
(including Office of Administration)	2948.00	3068.00	3193.00
Laborer (Mainten- ance)	3004.00	3124.00	3249.00
Laborer (Mainten- ance Lead Worker)	2984.00	3104.00	3229.00
Maintenance Worker (including Office of Administration)	3139.00	3259.00	3384.00
Power Shovel Operator (Maintenance)	3156.40	3302.50	3453.60
Power Shovel Operator (Maintenance) (Bridge Crew)	2774.00	2894.00	3019.00
Security Guard I (including Office of Administration)	2822.00	2942.00	3067.00
Security Guard II (including Office of			

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Administration)

Silk Screen Operator	3144.00	18.07	3264.00	18.76	3389.00	19.48
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B) Department of Central Management Services - Division of Vehicles - Downstate - (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

	July 1, 1994	July 1, 1995	July 1, 1996
	Mo.	Mo.	Mo.
	Hr.	Hr.	Hr.
Janitor I	2747.00	2867.00	2992.00
Janitor II	2778.00	2898.00	3023.00
Maintenance Equip- ment Operator (all divisions)	3040.00	3160.00	3285.00
Maintenance Worker	2984.00	3104.00	3229.00
Security Guard I	2774.00	2894.00	3019.00
Security Guard II	2822.00	2942.00	3067.00

C) Department of Mental Health and Developmental Disabilities - Lincoln Developmental Center

	July 1, 1994	July 1, 1995	July 1, 1996
	Mo.	Mo.	Mo.
	Hr.	Hr.	Hr.
Laborer (Mainten- ance)	2948.00	3068.00	3193.00

D) Departments of Children and Family Services, Corrections, Employment Security, Mental Health and Developmental Disabilities, Public Aid, Rehabilitation Services, State Police, Veterans' Affairs - Downstate - (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

	July 1, 1994	July 1, 1995	July 1, 1996
	Mo.	Mo.	Mo.
	Hr.	Hr.	Hr.
Maintenance Equip- ment Operator	3040.00	3160.00	3285.00

E) Department of Transportation - Division of Highways - Emergency Patrol - District #8

	July 1, 1994	July 1, 1995	July 1, 1996
	Mo.	Mo.	Mo.
	Hr.	Hr.	Hr.
Highway Maintainer	3115.00	3245.00	3385.00
Highway Mainten- ance Lead Worker	3244.00	3374.00	3514.00

F) Department of Natural Resources Conservation

	July 1, 1994	July 1, 1995	July 1, 1996
	Mo.	Mo.	Mo.
	Hr.	Hr.	Hr.
Power Shovel (Maintenance)	3139.00	3259.00	3384.00

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 20 Ill. Reg. _____, effective _____)

- 1) Heading of the Part: Background Checks
- 2) Code Citation: 89 Ill. Adm. Code 385
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
385.10	Amend
385.20	Amend
385.30	New
385.40	New
385.50	Renumber, Amend
385.60	Renumber, Amend
385.70	Amend
385.80	New
385.90	Amend
385.100	Renumber
385.Appendix A	New

- 4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: The amendments to these rules require criminal history checks for all persons currently licensed to operate a child care facility and all other persons subject to background checks, as defined in this Part. This includes a check of the Statewide Child Sex Offender Database, and certification from each licensee that he or she is current or not more than 30 days delinquent in child support. Licenses will not be renewed for persons who are more than 30 days delinquent in child support unless each licensee pays the delinquent child support or, if he or she is unable to pay the full amount, arranges a payment plan with the Department of Public Aid or the court of jurisdiction and makes payments in accordance with the agreement.

The amendments also require that all persons age 13 and over who are members of a household in which a child care facility operates must authorize and submit to background checks, as required by this Part. Criminal history checks of adults will be completed via the use of fingerprints whereas criminal history checks of persons ages 13 through 17 will be completed via the Law Enforcement Agency Data System (LEADS). The LEADS check on minors will not access any juvenile records, but will only provide information on crimes if a minor was tried as an adult. The amendments describe how criminal convictions are to be evaluated and provide a list of serious criminal convictions and pending criminal charges which serve as a bar to licensure/employment.

In a similar manner, the amendments establish the presumption that persons who have been indicated as the perpetrator of child abuse/neglect are not suitable for licensure or employment which involves contact with children, but allow the licensing entity or the employer to request a waiver of the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

presumption of unsuitability for good cause.

- 6) Will these proposed rules replace an emergency rule currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed rules contain incorporations by reference? No

- 9) Are there any proposed amendments to this Part pending? Yes

Section Number	Proposed Action	Ill. Rev. Citation
385.10	Amend	20 Ill. Reg. 03640 (March 1, 1996)
385.20	Amend	20 Ill. Reg. 03640 (March 1, 1996)
385.30	New	20 Ill. Reg. 03640 (March 1, 1996)
385.40	New	20 Ill. Reg. 03640 (March 1, 1996)
395.50	Renumber, Amend	20 Ill. Reg. 03640 (March 1, 1996)
385.60	Renumber, Amend	20 Ill. Reg. 03640 (March 1, 1996)
380.70	Renumber, Amend	20 Ill. Reg. 03640 (March 1, 1996)
385.80	New	20 Ill. Reg. 03640 (March 1, 1996)
385.90	New	20 Ill. Reg. 03640 (March 1, 1996)
385.100	Renumber, Amend	20 Ill. Reg. 03640 (March 1, 1996)
385.Appendix A	New	20 Ill. Reg. 03640 (March 1, 1996)

- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station # 222
Springfield, Illinois 62701-1498

Telephone: (217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows.

Rockford	Chicago
April 1, 1996	April 2, 1996
7:00 p.m. - 9:00 p.m.	7:00 p.m. - 9:00 p.m.
Sweden House	Quality Inn
4605 East State	One South Halsted
Rockford, IL 61108	Chicago, IL 60661
(815) 398-4130	(312) 829-5000
Springfield	Collinsville
April 4, 1996	April 8, 1996
7:00 p.m. - 9:00 p.m.	7:00 p.m. - 9:00 p.m.
State House	Quality Inn
Room 114	475 N. Bluff
Springfield, IL 62706	Collinsville, IL 62234
(217) 782-8223	(618) 344-7171
Chicago	Marion
April 30, 1996	May 1, 1996
2:00 p.m. - 4:00 p.m.	7:00 p.m. - 9:00 p.m.
James Thompson Center Auditorium	Marion Holiday Inn
100 W. Randolph	I-57 and Route 13
Chicago, IL	Marion, IL
(312) 814-4650	(618) 997-2326
Springfield	Peoria
May 8, 1996	May 6, 1996
2:00 p.m. - 4:00 p.m.	7:00 p.m. - 9:00 p.m.
Howlett Building	Holiday Inn City Center
1st Floor Auditorium	500 Hamilton Boulevard
2nd and Edwards	Peoria, IL
Springfield, IL 62706	(309) 674-2500
(217) 782-8996	

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Day care homes, group day care homes, and day care centers, for profit child welfare agencies, day care agencies, group homes and child care institutions, and entities that are not licensed child care facilities, but which have contracts

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

with the Department and such background checks are a condition of the contract.

B) Reporting, bookkeeping or other procedures required for compliance: The amendments require currently licensed child care facilities and future contractors with the Department to obtain authorizations for background checks from the license holder or contractor and all employees who have not completed such checks. The employer must analyze the results of the background checks in accordance with the requirements of this Part.

C) Types of professional skills necessary for compliance: Employers and contractors will need to exercise professional judgement in assessing whether individuals convicted or charged with a crime or indicated as perpetrators of child abuse/neglect can still be licensed or employed in positions which requires contact with children.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for the amendment was not foreseen at the time of the two most recent regulatory agendas.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 385

BACKGROUND CHECKS

Section	Purpose
385.10	Definitions
385.20	Applicability of This Part
385.30	Criminal Convictions and Pending Criminal Charges
385.40	Child Abuse or Child Neglect
385.50	Authorization for Background Checks Investigation
385.60	Disposition of Background Checks Investigation
385.70	Department Review of Decisions to Deny License
385.80	Records to be Maintained by the Child Care Facility
385.90	Severability of This Part
385.100	Criminal Convictions Preventing Licensure or Employment

APPENDIX A Criminal Convictions Preventing Licensure or Employment

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]

SOURCE: Emergency rules adopted at 10 Ill. Reg. 19123, effective October 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 6398, effective March 31, 1987; amended at 13 Ill. Reg. 5917, effective May 1, 1989; emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective _____.

Section 385.10 Purpose

The purpose of this Part is to ensure the safety and well-being of children cared for in any facility subject to licensing licensed by the Department of Children and Family Services by requiring that the operators of child care facilities and other persons subject to background checks, as defined in Section 385.20, ~~their--employees~~ be screened for a history of ~~possible~~ child abuse or of child neglect, prior criminal activities or pending criminal charges. In addition, the Department may require purchase of service providers who have contact with children as part of their duties to authorize a background check, as required by this Part. ~~Such screening is a condition of licensure or employment in child care facilities as such facilities are defined by the Child Care Act of 1969 (Ill. Rev. Stat. 1985, ch. 33, par. 2-12.05 et seq.) and this Part shall be construed in conjunction with the licensing standards for the type of facility for which license or employment is sought.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 385.20 Definitions

"Adult" means any person who is 18 years of age or older.

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home, group day care home, or foster family home.

"Authorization for background check" means a complete, signed form prescribed by the Department which authorizes a background check as defined in this Part and submission of fingerprints, if required. An authorization for a background check may be used for the initial and all subsequent background checks required to determine compliance with the requirements of this Part.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database; and

- a check of child support records to determine whether each licensee or license applicant is delinquent in paying an order of child support.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Illinois Department of Children and Family Services.

"Child" means any person under 18 years of age. [Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01]]

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. "Child care facility" includes a relative who is licensed or who applies for a

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

License as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05] ~~Child-care facility means any person, group of persons, agency, association or organization which arranges for care or cares for children unrelated to the operator of the facility apart from the parents in any facility as defined in the Child Care Act of 1969. Child-care facilities may be established for profit or not for profit. A child care facility may consist of distinct unit(s), division(s), or department(s) of a multi-function agency. "Child care facility" is further defined in Section 2.05 of the Child Care Act of 1969. As used in this Part, "child care facility" means any child care institution, maternity center, child welfare agency, day care center, day care agency, group home, foster family home, or day care home, group day care home, or youth emergency shelter as defined by the Child Care Act of 1969.~~

~~"Conditional employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren)) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that involve contact with children as part of the job duties in the present or prospective employment and who has commenced such duties while awaiting the results of the background check required by this Part.~~

~~"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. [Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5]]~~

~~"Date of notice" means the date of the written notice to a license holder that all persons subject to background checks, as defined in this Section, must authorize such checks and submit to fingerprinting, if required.~~

~~"Denial of application for license" means the refusal to grant a license to a person, group of persons, agency, association or organization that applied for a license to operate a child care facility.~~

~~"Department" means the Illinois Department of Children and Family Services. [Section 2.02 of the Child Care Act of 1969]~~

~~Director" means the Director of the Illinois Department of Children and Family Services.~~

~~"Employee", as used in this Part, means any staff person employed by a child care facility, and includes any substitute, assistant, volunteer~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

or work-study student used to replace or supplement staff in direct care or supervision of children. This definition includes administrative, professional and other support staff who have contact with children as part of the duties in the present or prospective employment.

"Governing body," as used in this Part, means the board of directors of a corporation; otherwise, the term means the owner(s) or other person(s), agency, association or organization legally responsible for the operation of the child care facility.

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Child Abuse and Neglect Tracking System (CANTS) and the Law Enforcement Agency Data System (LEADS).

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"LEADS" means Law Enforcement Agency Data System.

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

~~"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed.~~

~~(Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])~~

"Licensing representative," for purposes of this Part, means Department staff authorized under the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in the household of a family home as evidenced by maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation", as used in this Part, means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (Section 6-601 of the Illinois

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Driver Licensing Law [625 ILCS 5/6-601]

"Multi-function agency," as used in this Part, means an agency, association, or other organization which operates a child care facility, child welfare agency, or day care agency in addition to among other services not subject to licensure under the Child Care Act of 1969. A child care facility, child welfare agency, or day care agency may consist of distinct unit(s), division(s), or department(s) of a multi-function agency. In a multi-function agency, only the persons with direct authority for the operations of the child care facility and those who have contact with children as part of the duties in the present, prospective, or conditional employment are subject to the background check requirements of this Part.

"Operator" means the persons **person** responsible for the day-to-day management of the child facility. If the governing body is a partnership, association, or corporation, "operator" means the chief executive officer or other persons serving in like capacity.

"Parental involvement" means occasional parental assistance with a child care program such as participation in field trips, parties, attendance on special days or for special events, or parental support and cooperation in the classroom on an infrequent basis, not to exceed an average of three times per month.

"Persons subject to background checks" means the operator(s) of the child care facility, and all current, conditional and prospective employees of the child care facility, as defined in this Section. If the child care facility operates in a family home, the license applicant(s) and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Prospective employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren)) selected by the governing body or operator of a child care facility who has met the qualifications for his or her position with the exception of the background check **investigation** required by this Part and a medical examination (if required by applicable licensing standards) and who has not yet commenced employment.

"Purchase of service provider" means an agency or individual(s) offering services to Department client(s) through a signed contract with the Department.

"Review" means the Department's reconsideration of a decision to deny

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

licensee based upon a record as a perpetrator of child abuse or neglect, a prior criminal history or pending criminal charges.

"State Central Register" means the child abuse and neglect data system maintained by the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 40]. ~~(((Rev-Stat-19657-Chr-237 pars-2251-et-seq-))~~

"Statewide Child Sex Offender Registry" means the registry of felony child sex offenders operated and maintained by the Illinois State Police.

"Substitute" means a permanent or temporary employee(s) who is used to replace or supplement regular staff.

"Supervising agency" means a licensed child welfare agency, a licensed day care agency, a license exempt agency, or the Department of Children and Family Services.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 385.30 Applicability of This Part

a) Effective Date of Amendments

These amendments become effective October 1, 1996 for all licensed child care facilities in which any person subject to a background check, as defined in Section 385.20, has not authorized CANTS and criminal history background checks and submitted to fingerprinting, if required. Such facilities shall submit completed, signed authorizations for background checks for all persons subject to background checks within thirty days after the date of notice from the Department requesting such authorizations.

b) License Renewals

In no event may any existing child care facility license be renewed after October 1, 1996 unless all such background checks have been authorized and fingerprints obtained as required by this Part. The license shall not be renewed until the results of the background check have been received for the operator of the child care facility. However, renewal of the license shall not be delayed pending receipt of the results of the background check for employees and, if the facility operates within a family home, for other members of the household if complete, signed authorizations have been submitted and fingerprints obtained for all persons subject to background checks, as defined in Section 385.20.

c) Scope of Background Checks

1) All persons subject to background checks pursuant to this Part shall be processed through the Child Abuse and Neglect Tracking

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

System (CANTS) and the Statewide Child Sex Offender Database. Fingerprints of all persons age 18 and over shall be submitted to the Illinois State Police for a criminal history check. A Law Enforcement Agency Data System (LEADS) check shall be completed for all persons ages 13 through 17 who are subject to background checks, as defined in Section 385.20. In addition, each licensee applicant(s) and each licensee, as a condition of license renewal, must certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license. [5 ILCS 100/10-65(c)]

2) Fingerprints for the following persons age 18 and over shall be submitted to the Federal Bureau of Investigation (FBI) for a search of its records for evidence of prior criminal activity:

- A) persons who have a record of criminal activity which may impact their suitability for licensure/employment by their own acknowledgment or according to the records of the Illinois Department of State Police; and
- B) persons who have resided in the State of Illinois for three years or less.

d) A Condition of Employment or Volunteer Service

1) As a condition of employment and continuing employment in a licensed child care facility in a position which involves contact with children, all persons subject to background checks, as defined in Section 385.20, shall complete and sign authorizations for background checks and submit to fingerprinting, if required. This applies to all current, prospective and conditional employees subject to background checks, as defined in Section 385.20, and to volunteers used to replace or supplement staff in the direct care and supervision of children.

2) Parents who assist occasionally (an average of not more than three times per month) with the child care facility program are not considered volunteers if the child care facility maintains its full staff-child ratio when the parents are present, parents do not assume the regular duties of staff, parents are under the direct supervision of staff and are not left alone unsupervised with children (other than their own). Such parental involvement does not constitute a volunteer used to replace or supplement staff and is not subject to the background check requirements of this Part.

3) Complete, signed authorizations for background checks must be sent to the Department of Children and Family Services postmarked within two business days after the person's employment or the beginning of the volunteer service (for persons hired to begin work on or after March 1, 1996) or within thirty days after the date of notice to the license holder for all persons employed in a child care facility before March 1, 1996.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
NOTICE OF PROPOSED AMENDMENTS

offenders in subsection (g) above unless the Director or designee has waived the presumption of unsuitability. Such waivers may be requested in accordance with Section 385.50(b).

- i) No Charge for Background Checks
There is no charge to license applicants or licensed child care facilities for the background checks which are required by this Part.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 385.40 Criminal Convictions and Pending Criminal Charges

- a) Convictions Which Serve as Bar to Licensure/Employment Involving Contact with Children
Persons with certain serious criminal convictions shall not receive a license to operate a child care facility or, if such a person has been licensed to operate a child care facility, the licensing entity shall revoke or refuse to renew such license upon learning that the licensee has been convicted of committing or attempting to commit any of the offenses identified below. In addition, no person shall be employed in a licensed child care facility in a position that involves contact with children as part of the duties, or reside in a family home in which a child care facility operates, who has been convicted of committing or attempting to commit any of the offenses listed below. This includes persons who have been:
1) declared a sexually dangerous person under the Sexually Dangerous Persons Act [725 ILCS 205] or identified as a child sex offender in the Statewide Child Sex Offender Database operated by the Illinois State Police; or
2) convicted of committing or attempting to commit any of the offenses specified in Appendix A of this Part which are defined by the Criminal Code of 1961 [720 ILCS 5] or any earlier Illinois criminal law or code; or
3) convicted of committing or attempting to commit an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified in Appendix A of this Part.

- b) Special Provisions for Foster Family Homes
In addition to the provisions set forth in subsection (a) above, no applicant may be licensed by the Department to operate a foster family home, and no person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Appendix A, Criminal Convictions Which Prevent Licensure of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, or who is included in the Statewide Child Sex Offender Database (unless the offender is a ward of the State of Illinois placed in the foster home by the Department or its contractual agent).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
NOTICE OF PROPOSED AMENDMENTS

- e) Child Care Facilities that Operate Within a Family Home
If the child care facility operates in a family home, adult members of the household shall be fingerprinted to be screened for prior criminal activities and current pending criminal charges in accordance with the requirements of this Part. Members of the household ages 13 through 17 shall be screened for prior criminal activities (if tried as an adult) via the LEADS system. All household members age 13 and over shall be screened for a history of child abuse or neglect and for inclusion in the Statewide Child Sex Offender Database. These background checks are required even if members of the household usually are not present in the home during the hours the child care facility is in operation.

- f) Responsibility for Cooperation
Child care facilities shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representative(s). Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:
1) death in the family of the person; or
2) serious illness of the person or illness in the person's immediate family; or
3) weather or transportation emergencies which make it impossible for the person being fingerprinted to go to the fingerprinting site.

- g) Limitations of Criminal Offenders
Persons age 18 and over who have been convicted of committing or attempting to commit the offenses in Section 385.40(a) or (b) (when applicable) and persons age 13 and over who are included in the Statewide Child Sex Offender Database shall not:
1) receive a license from the Department to operate a child care facility or have such a license renewed; or
2) be employed by a child care facility licensed by the Department in a position which involves contact with children as part of the duties; or
3) be a member of the household in a family home in which a child care facility operates; or
4) obtain a contract from the Department to provide services which require contact with children as part of their duties, if the requirement for such background checks are a condition of the contract.

- h) Limitations of Perpetrators of Child Abuse/Neglect
Persons who have been indicated as the perpetrator of any of the child abuse/neglect allegations identified in Section 385.50(a) are presumed to be unfit for service which involves contact with children. These indicated perpetrators are limited in the same manner as the criminal

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- c) Assessment of Criminal Convictions
 Except as specified in subsections (a) and (b) of this Section, an individual convicted of a crime will not automatically be prohibited from licensure, renewal of a license, or employment in a child care facility or from obtaining a contract with the Department to provide services which require contact with children as part of their duties. Instead, the following shall be considered:
- 1) the nature of the crime for which the individual was convicted;
 - 2) the circumstances surrounding the commission of the crime, including the age of the individual, that would demonstrate a low likelihood of repetition;
 - 3) the period of time that has elapsed since the crime was committed and the number of crimes for which the individual was convicted;
 - 4) evidence of rehabilitation such as successful participation in therapy since conviction;
 - 5) granting by the Governor of a full and unconditional pardon or overturn of the conviction upon appeal;
 - 6) character references; and
 - 7) the relationship of the crime to the capacity to care for child(ren) or to be in contact with child(ren) cared for in a child care facility.
- d) Assessment of Pending Criminal Charges
 An individual against whom criminal charges are pending shall not be automatically prohibited licensure, renewal of a license, or employment because of the pending criminal charges. Instead, the following shall be considered:
- 1) the seriousness and nature of the charges which are pending including a determination of whether the charges are among those listed in Appendix A of this Part that serve as a bar to licensure or employment in a position that involves contact with children as part of the duties;
 - 2) the circumstances surrounding the incident that led to the criminal charge;
 - 3) the relationship of the charges to the ability to care for child(ren) or to be in contact with child(ren) in a child care facility;
 - 4) whether the individual has ever been convicted of or charged with crimes of a similar nature; and
 - 5) character references and other information, especially about the suitability of the individual to care for child(ren).
- e) Notification of Hiring Decision
 Child care facilities shall notify the Department in writing of their decision regarding the employment of a person with a criminal history. Such notice shall be postmarked within two business days after the date of the facility decision regarding the hiring, continued employment or reassignment of the individual in question to a position which does not involve contact with children. If the facility chooses to retain the employee, the duties to be performed by the employee

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

must be clearly specified in the notice provided to the Department.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 385.5030 Child Abuse or Child Neglect

a) Indicated Reports of Child Abuse/Neglect

The Department makes the presumption that an individual ~~No individual may receive a license from the Department or be employed by a child care facility licensed by the Department who has been determined to be a perpetrator of child abuse or neglect involving the allegations listed below, as defined in Appendix B, Child Abuse and Neglect Allegations, of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect, is not suitable for work which involves contact with children. under Section 3 of the Abused and Neglected Child Reporting Act (Ill. Rev. Stat., 1995, ch. 23, par. 2-253) and who has been identified through court (juvenile, criminal, civil) proceedings as having been a perpetrator of child abuse or neglect based on any one of the following:~~

- 1) Death
- 2) Brain damage or skull fracture
- 3) Subdural hematoma
- 4) Internal injuries
- 5) Wounds (gunshot, knife, or puncture)
- 6) Torture
- 7) Sexually transmitted diseases
- 8) Sexual penetration
- 9) Sexual molestation
- 10) Sexual exploitation
- 11) Failure to thrive
- 12) Malnutrition
- 13) Medical neglect of disabled infant

14) A single indicated report of child abuse or neglect that resulted in serious injury to the child, regardless of the allegations involved

15) More than one indicated report involving any of the following allegations, regardless of severity:

- A) Burns or scalding
- B) Poison or noxious substances
- C) Bone fractures
- D) Cuts, bruises, or welts
- E) Human bites
- F) Sprains or dislocations
- G) Tying or close confinement
- H) Substance misuse
- I) Mental injury
- J) Substantial risk of physical injury

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- K) Inadequate supervision
 L) Abandonment or desertion
 M) Medical neglect
 N) Lock-out
 O) Inadequate food
 P) Inadequate shelter
 Q) Inadequate clothing
 R) Environmental neglect
- b) For purposes of this Section, identification through circuit court proceedings includes:
- 1) specific findings by a court that a child's abuse or neglect or dependency is the result of abuse or neglect inflicted by a parent, guardian, legal custodian or other person responsible for the child's welfare as defined in Section 3 of the Abused and Neglected Child Reporting Act;
 - 2) criminal convictions and civil judgments regardless of the type of sentence imposed or amount of damages recovered for offenses relating to child abuse or child neglect resulting from jury trial, bench trial, or voluntary guilty plea;
- c) Prior to denying an individual a license or employment pursuant to subsection (a) of the Department shall notify the individual that he or she has been identified as a perpetrator of child abuse or neglect as described in subsection (a) above and the Department or child care facility as applicable shall provide the individual an opportunity to demonstrate that he or she is not the individual identified in the court finding, criminal conviction or civil judgment.
- d) An individual requesting an opportunity for review pursuant to subsection (c) above shall submit such request in writing to the Department or the child care facility as applicable within ten (10) days of receipt of written notice of the Department's intent to deny a license or the Department's or child care facility's intent to deny employment. The individual shall be notified in writing of the date, time and location of the review. The individual may be represented by counsel of his or her choice and may present evidence and/or witness testimony on his or her own behalf. The individual shall be required to produce evidence that he or she is not the individual identified in the court finding, criminal conviction or civil judgment. Evidence to be considered shall be limited to:
- 1) Fingerprints processed through the U.S. Justice Department and the Illinois Department of State Police indicating an absence of a conviction arising from child abuse or neglect identified in subsection (a) above; or
 - 2) Sworn statements from the law enforcement agency or clerk of the court upon whom the Department has relied for the identification that the subject of the report provided to the Department is not the individual seeking licensure or employment.
- b) Assessment of Indicated Reports

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- e) Except as provided in subsection (a) above:
- 1) A person determined to be the perpetrator of an indicated incident of abuse or neglect under Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3] shall not automatically be denied a license or refused license renewal from the Department or shall not automatically be denied employment that involves contact with children in a child care facility licensed by the Department. Rather, the Department or the governing body, as applicable, shall provide the individual an opportunity to present evidence which demonstrates fitness for licensure or employment.
 - 2) When the abuse or neglect includes allegations identified in subsection (a) of this Section, the Department presumes the individual is not suitable to be licensed to operate a child care facility or to reside in a family home in which such a facility operates or for work which involves contact with children. If the licensing entity (for license applicants and current license holders) or the employer (for current, prospective and conditional employees) believes the individual is suitable for licensure or employment which involves contact with children, the licensing entity or the employer may request a review and waiver of the presumption of unsuitability.
 - 3) The Director of the Department or the Director's designee shall review any materials submitted on the individual's behalf and may waive the presumption that the individual is unsuitable for licensure or employment which involves contact with children if, in the Director or designee's sole judgment, there is good cause for waiving the presumption of unsuitability. If the Director or designee waives the presumption that the individual is unsuitable, the hiring or licensing decision shall be made in accordance with the totality of the requirements of this Part and the applicable licensing standards. Such evidence shall include, but not be limited to:
 - A) the nature of the abuse or neglect with which the individual was identified, including whether the abuse or neglect resulted in serious injury or death to a child or children;
 - B) the circumstances surrounding the commission of the abuse or neglect, including the age of the perpetrator and the child(ren), that would demonstrate unlikelihood of repetition;
 - C) the period of time that has elapsed since the abuse or neglect occurred and whether prior incidents of child abuse or child neglect have been indicated against the individual;
 - D) whether the abuse or neglect involved a single or multiple child victims;
 - E) the relationship of the incident of child abuse or neglect to the individual's current or prospective job

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

responsibilities within the child care facility;

F16) whether the individual has been convicted of a criminal offense which might have bearing on the individual's ability to function in a child care facility as licensee or employee;

G17) evidence of rehabilitation such as employment, education, participation in therapy since the indicated incident(s) of abuse or neglect; and

H18) character references.

c) Notification of Hiring Decision

Child care facilities shall notify the Department in writing of their decision regarding the employment of a person who has been indicated as a perpetrator of child abuse/neglect. Such notice shall be postmarked within two business days after the facility decision regarding hiring, continued employment or reassignment of the individual in question to a position which does not involve contact with children. If the facility chooses to retain the employee, the duties to be performed by the employee must be clearly specified in the notice provided to the Department.

f1) An individual requesting an opportunity for review pursuant to subsection (e) above shall submit such request in writing, to the Department or the child care facility as applicable, within ten (10) days of receipt of written notice of the Department's intent to deny a license or the Department's or child care facility's intent to deny employment. The individual shall be notified in writing of the date, time and location of the review. The individual may be represented by counsel of his or her choice, and may present evidence and/or witnesses on his or her behalf.

g1) In order for an individual to be considered fit for licensure or employment, the person(s) conducting the review must conclude that when all the evidence presented pursuant to subsection (e) is considered, the individual is more fit for licensure or employment than not; the decision of a governing body regarding employment is final; subject to review under the personnel policies of the governing body; A decision of the Department regarding licensure is final; subject to review by a court of competent jurisdiction.

h1) A written record shall be made of any review(s) conducted pursuant to this section, and such record shall contain copies of all documents relied upon in making a denial determination of fitness for licensure or employment.

(Source: Section 385.50 renumbered from Section 385.30 and amended at 20 Ill. Reg. _____, effective _____)

Section 385.6040 Authorization for Background Investigation Checks

a) Persons Required to Authorize Background Checks

All persons required to authorize background checks (as defined in

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 385.20) must authorize such checks as a condition of employment and continuing employment, initial license or the renewal of an existing license, continued licensing, or when required for a contract with the Department.

a) ~~Each operator of a child care facility as a condition of licensure, each member of the household in a family home, 19 years of age or older, and each employee and prospective employee of a child care facility as a condition of employment, shall authorize the Department to conduct a background check consisting of a search of the child Abuse and Neglect Tracking System (CANTS) maintained by the State Central Register to determine whether the person has been indicated as a perpetrator of child abuse or child neglect.~~

b) Contents of Authorization

The authorization required by this Section shall be on forms ~~a--form~~ prescribed by the Department and shall include:

1) Identifying information consisting of name, address, Social Security number, date of birth, height, weight, hair and eye color, previous names and addresses;

2) A certification under penalty of perjury regarding any prior criminal convictions other than a minor traffic violation, as defined by this Part, and of any pending criminal charges;

3) A certification by the license applicant(s) under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application. Refusal to renew the license, or revocation of the license [5 ILCS 100/10-65(c)]; and

4) authorization for the Department to release the results of the background check investigation to the governing body or employer or, in the case of a group home or a child care facility operating in a family home, to the supervising agency for the child care facility.

c) Employees Absent from Active Duty

For purposes of this Part only, employees who have been separated from a child care facility licensed by the Department of Children and Family Services for six months or longer (for reasons other than vacation, sabbatical leave), sick leave or maternity leave shall no longer be considered current employees. Upon their return to active duty, such individuals shall be required to again authorize a background check investigation pursuant to this Part Section.

d) Transfers Between Licensed Facilities

Facilities which hire an employee after March 1, 1996 who has cleared a complete background check consisting of a criminal history check and a CANTS check at a facility licensed by the Department of Children and Family Services do not need to complete another background check if:

1) the employee transfers to another facility licensed by the Department of Children and Family Services; and

2) there is less than six months between leaving one facility

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

licensed by the Department and beginning employment at another facility licensed by the Department.

- e) License Inactive for Six Months or Longer
Persons who have been previously licensed, but who have not held a valid license for six months or longer (for reasons other than pending administrative appeals), shall be required to again authorize a background check pursuant to this Part before another license may be issued.

f) Multi-Function Agencies

- d) Current employees, conditional employees, ~~Employee(s)~~ and prospective employee(s) of a multi-function agency otherwise exempt from the requirements of this Part, who have contact with children as part of their present or prospective employment, ~~but whose duties require that they be on the premises of a child-care facility~~, shall authorize the background check investigation required by this Part and submit to fingerprinting, if required.

g) Conditional Employment

- e) An individual hired to begin employment on or after March 1, 1996 who has authorized the background check investigation required by this Part may be employed by a child care facility on a conditional ~~provisional or probationary~~ basis pending the outcome of the required background check investigation. The form authorizing such a background check investigation shall be sent to Department of Children and Family Services postmarked within two business days after such employment or the beginning of volunteer service or may be submitted via facsimile to the Employment FAX Line at (217) 785-6368. Conditional employees shall not be left alone with children until the results of the initial background check have been received. ~~forwarded to the Department immediately by the governing body or operator of the child-care facility employing the individual; the Department shall complete the investigation required by this Part within ninety (90) days of receipt of the authorization.~~

(Source: Section 385.60 renumbered from Section 385.40 and amended at 20 Ill. Reg. _____, effective _____)

Section 385.7050 Disposition of Background Checks Investigation

a) Notice of Findings

The Department shall notify the governing body (as explained in this subsection (a)) or operator of the child care facility, in writing, of the results of the background checks investigation in accordance with this Section. When the subject of the background check investigation is the director, administrator or other chief executive officer of the facility, the Department shall notify the presiding officer of the governing body of the results of the check investigation, and the presiding officer shall take those actions required by this Part. In the case of a group home or a child care facility which operates in a

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

family home, the Department shall notify the supervising agency for the facility of the results of the check.

- b) Prior to notifying the governing body or operator of a child-care facility that an employee or prospective employee is the perpetrator of an indicated incident of child abuse or neglect, the Department shall attempt to contact the telephone or in person contact with the employee or prospective employee to verify whether the perpetrator of the indicated incident and the employee or prospective employee are the same person.

b) Child Care Facility Decision Regarding Employment

- e) When the background investigation discloses that an employee or prospective employee was the indicated perpetrator of child abuse or neglect, the Department shall provide the governing body or operator of the facility with any abstract of the information contained in the State Central Register and any record of criminal history or pending criminal charges, and a copy of court records available to the Department if applicable. It shall be the responsibility of the governing body or operator of the facility to determine whether to hire or continue the employment of a conditional employee or to reassign the individual in question to a position which does not involve contact with children, provide the individual an opportunity for a review in accordance with the facility's personnel policies Section 385.30, and notify the Department of its employment decision within thirty (30) days after receipt of the information from the Department.

- d) When the individual indicated as a perpetrator of child abuse or neglect is the applicant for a child-care license or an adult member of the household of such applicant, the Department shall conduct a review in accordance with Section 385.30 and shall notify the applicant whether the individual is eligible for a license on the basis of the background check within thirty (30) days of its determination that the applicant or an adult member of the household is an indicated perpetrator of child abuse or neglect.

c) Reinstatement of License or Return to Employment Involving Contact with Children

- e) A person denied licensure or employment or a person relieved of child-related duties pursuant to this Section shall be eligible for licensure, employment, or resumption of child-related duties, provided:

- 1) a Departmental investigation or court trial concludes with a finding that the person is not the perpetrator of child abuse or neglect or did not commit the crimes listed in the criminal history report; or
- 2) a finding indicating child abuse or neglect is expunged or removed as a result of an administrative or judicial review; or
- 3) a prior conviction of a crime is overturned upon appeal; or
- 4) pending charges or allegations have been dismissed; or
- 5) the Department or the governing body as applicable has

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

reviewed the incident of abuse or neglect or the criminal history in accordance with Section 385.39 and approved licensure in accordance with the requirements of this Part; or ~~or employment.~~

6) the employer has reviewed the incident and approved employment which involves contact with children in accordance with the requirements of this Part. The decision of the employer is final, subject to review under the personnel policies of its governing body. Such hiring decisions may not be appealed to the Department of Children and Family Services; or

7) when the license applicant(s) is denied a license because he or she is more than 30 days delinquent in child support, proof that the child support has been paid in full or that a payment schedule has been arranged with the Department of Public Aid (Title IV-D support cases) or the court of jurisdiction (all other child support cases).

(Source: Section 385.70 renumbered from Section 385.50 and amended at 20 Ill. Reg. _____, effective _____)

Section 385.80 Department Review of Decisions to Deny License

a) Availability of Review of Denial Decision

The Department shall conduct reviews, upon a written request, of its decision to deny licensure based upon the background checks conducted in accordance with the requirements of this Part unless the license applicant has the right to appeal the decision under 89 Ill. Adm. Code 338, Appeal of Foster Family Home License Denials by Relative Caregivers (for relative caregivers who applied for a foster family home license) or 89 Ill. Adm. Code 383, Licensing Enforcement (for revocations, refusal to renew a license, and permit holders who are denied a license).

b) Decision Review Process

An individual requesting an opportunity for review pursuant to subsection (a) above shall submit such request, in writing, to the Central Office of Licensing, Department of Children and Family Services, 406 E. Monroe St., Station #60, Springfield, IL 62701 within ten days after the date of written notice of the denial of an application for license. The individual shall be notified, in writing, of the date, time and location of the review. The individual may be represented by counsel of his or her choice, and may present evidence and/or witness(es) on his or her own behalf. The individual shall be required to produce evidence that he or she is not the individual identified in the background report or, if the issue is delinquency in the payment of child support, that the child support has been paid in full or that a payment schedule has been arranged with the Department of Public Aid (Title IV-D cases) or a court of jurisdiction (all other child support cases). Evidence to be considered shall be limited to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) When the review involves an indicated CANTS report, sworn statements from the administrator of the child protection division for the Department that the individual named in the report is not the individual in question; or
- 2) When the review involves a criminal history record, evidence shall be limited to sworn statements from the law enforcement agency or clerk of the court upon whom the Department has relied for the identification that the subject of the criminal history record provided to the Department is not the individual in question; or
- 3) When the review involves delinquent child support, sworn statements from the Department of Public Aid or the clerk of the court, as applicable, that child support has been paid in full or a payment schedule arranged.

c) Final Administrative Decision

The person(s) conducting the review must conclude that, when all the evidence presented pursuant to this Part and the applicable licensing standards are considered, there is clear and convincing evidence that the individual(s) is not the person named in the indicated report/criminal history record or that the individual is suitable for service which involves contact with children despite the results of the background check. If the review is addressing the issue of delinquent child support, the individual must submit proof that he or she has paid the delinquency or made arrangements for payment of delinquent child support. A decision of the Department licensing authority is final, subject to review by a court of competent jurisdiction.

d) Record of Decision Review

A written record shall be made of any review(s) conducted pursuant to this Section, and such record shall contain copies of all documents relied upon in making the determination of fitness or unfitness for licensure.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 385.90 60 Records to be Maintained by the Child Care Facility

- a) The governing body or operator of a child care facility shall maintain a copy of the authorization for background checks investigation required by Sections 385.40 and 385.50 as part of the personnel records of the facility for a period of five years from the date of the authorization--of termination of the employee ~~whenever-is later.~~
- b) The results of the Department's background check investigation and the record of any conclusions or recommendations resulting from the review of the findings of that check investigation by the governing body or operator of the child care facility shall be maintained for five years

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

years in a file separate, confidential file apart from other personnel records. Access to such records shall be limited to the following:

- 1) the subject of an individual record;
- 2) the governing body or operator of the child care facility;
- 3) Department licensing representatives;
- 4) Department staff authorized, in writing, by the Director to conduct background checks ~~investigations~~ pursuant to this Part;
- 5) persons who are authorized, in writing, by the governing body or operator of the child care facility and whose duties are related to the background checks ~~investigation~~ or its findings; and
- 6) Department representatives who have the Director of the Department's written authorization which specifies the statutory authority or administrative rule(s) under which the access is granted.

(Source: Section 385.90 renumbered from Section 385.60 and amended at 20 Ill. Reg. _____, effective _____)

Section 385.10070 Severability of This Part

If any court of competent jurisdiction finds that any rule, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

(Source: Section 385.100 renumbered from Section 385.70 at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 385.APPENDIX A Criminal Convictions Preventing Licensure or Employment

If any person subject to background checks has been included in the Statewide Child Sex Offender Database or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 [720 ILCS 5] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to receiving a license or permit to operate as a child care facility and to renewal of an existing license to operate a child care facility, and from obtaining employment or continuing in employment in a licensed child care facility which involves contact with children as part of the duties.

In addition to the list of crimes in this Appendix A, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Appendix A, Criminal Convictions Which Prevent Licensure, of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, which is a more inclusive list of crimes.

The offenses which serve as a bar to licensure or employment involving contact with children in any child care facilities subject to licensing include:

OFFENSES DIRECTED AGAINST THE PERSON**HOMICIDE**

Murder
Solicitation of murder
Solicitation of murder for hire
Intentional homicide of an unborn child
Voluntary manslaughter of an unborn child
Involuntary manslaughter
Reckless homicide
Concealment of a homicidal death
Involuntary manslaughter of an unborn child
Reckless homicide of an unborn child
Drug induced homicide

KIDNAPPING AND RELATED OFFENSES

Kidnapping
Aggravated kidnapping
Aggravated unlawful restraint
Felony unlawful restraint
Forcible detention

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Child abduction
 Aiding and abetting child abduction
 Harboring a runaway

SEX OFFENSES

Indecent solicitation of a child
 Indecent solicitation of an adult
 Public indecency
 Sexual exploitation of a child
 Sexual relations within families
 Prostitution
 Soliciting for a prostitute
 Soliciting for a juvenile prostitute
 Solicitation of a sexual act
 Pandering
 Keeping a place of prostitution
 Keeping a place of juvenile prostitution
 Patronizing a prostitute
 Patronizing a juvenile prostitute
 Pimping
 Juvenile pimping
 Exploitation of a child
 Obscenity
 Child pornography
 Harmful material
 Tie-in sales of obscene publications to distributors

BODILY HARM

Heinous battery
 Aggravated battery with a firearm
 Aggravated battery of a child
 Tampering with food, drugs, or cosmetics
 Hate crime
 Stalking
 Aggravated stalking
 Threatening public officials
 Home invasion
 Vehicular invasion
 Drug induced infliction of great bodily harm
 Criminal sexual assault
 Aggravated criminal sexual assault
 Predatory criminal sexual assault of a child
 Criminal sexual abuse
 Aggravated sexual abuse
 Criminal transmission of HIV
 Criminal neglect of an elderly or disabled person

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Child abandonment
 Endangering the life or health of a child
 Ritual mutilation
 Ritualized abuse of a child

DRUG OFFENSES

Cannabis trafficking
 Delivery of cannabis on school grounds
 Calculated criminal cannabis conspiracy
 Possession of a controlled substance
 Unauthorized manufacture or delivery of controlled substances
 Controlled substance trafficking
 Manufacture, distribution, advertisement of look-alike substances
 Calculated criminal drug conspiracy
 Permitting unlawful use of a building
 Delivery of controlled, counterfeit or look-alike substances to persons under age 18, or at truck stops, rest stops, safety rest areas, or on school property
 Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances
 Delivery of controlled substances
 Sale or delivery of drug paraphernalia
 Felony possession, sale or exchange of instruments adapted for use of controlled substances or cannabis by subcutaneous injection

(Source: Added at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Child Care Institutions and Maternity Centers

- 2) Code Citation: 89 Ill. Adm. Code 404

- 3) Section Numbers: Proposed Action:
 404.2 Amend
 404.3 Repeal
 404.4 Amend
 404.6 Amend
 404.7 Amend
 404.13 Amend
 404.24 Amend
 404.47 Amend

- 4) Statutory Authority: 225 ILCS 10

- 5) A Complete Description of the Subjects and Issues Involved: The amendments require all prospective and current employees of child care institutions to submit to fingerprinting. In addition, the references to 89 Ill. Adm. Code 359, Background Inquiry for Purchase of Service Providers, have been deleted and replaced by 89 Ill. Adm. Code 385. The amendments also require that a list of all employees subject to background checks and their authorizations to conduct the background check be attached to the application for a license. Finally, the time period for which a license is valid is being raised from two years to four years.

- 6) Will these proposed rules replace an emergency rule currently in effect?
 No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed rules contain incorporations by reference? No

- 9) Are there any proposed amendments to this Part pending? No

- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
 Chief, Office of Rules and Procedures
 Department of Children and Family Services

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

406 East Monroe, Station #222
 Springfield, Illinois 62701-1498
 Telephone: (217) 524-1983
 TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows.

Rockford

Chicago

April 1, 1996

April 2, 1996

7:00 p.m. - 9:00 p.m.

7:00 p.m. - 9:00 p.m.

Sweden House

Quality Inn

4605 East State

One South Halsted

Rockford, IL 61108

Chicago, IL 60661

(815) 398-4130

(312) 829-5000

Springfield

Collinsville

April 4, 1996

April 8, 1996

7:00 p.m. - 9:00 p.m.

7:00 p.m. - 9:00 p.m.

State House

Quality Inn

Room 114

475 North Bluff

Springfield, IL 62706

Collinsville, IL 62234

(217) 782-8223

(618) 344-7171

April 30, 1996

May 1, 1996

2:00 p.m. - 4:00 p.m.

7:00 p.m. - 9:00 p.m.

James Thompson Center Auditorium

Marion Holiday Inn

100 W. Randolph

Highway 57 and Route 13

Chicago, IL

Marion, IL

(312) 814-4650

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Peoria

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Howlett Building

Holiday Inn City Center

1st Floor Auditorium

500 Hamilton, Boulevard

2nd and Edwards

Peoria, IL

Springfield, IL 62706

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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: For profit child care institutions.
- B) Reporting, bookkeeping or other procedures required for compliance: The amendments require child care facilities to have fingerprint checks done on current and prospective employees and to attach to the application for licensure a list of all employees subject to background checks and their authorizations to conduct the checks. Facilities will also be required to conduct reviews, upon written request, of their decisions to deny employment based upon the results of the background checks.
- C) Types of professional skills necessary for compliance? Employers will need to exercise professional judgment in assessing whether individuals convicted of or charged with a crime can be employed to provide services which require contact with children.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for these amendments was not foreseen at the time of the two most recent regulatory agendas.

The full text of the proposed amendment begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 404

LICENSING STANDARDS FOR CHILD CARE INSTITUTIONS AND MATERNITY CENTERS

Section	Purpose
404.1	Purpose
404.2	Definitions
404.3	Effective Date of Standards (Repealed)
404.4	Application for License
404.5	Application for Renewal of License
404.6	Provisions Pertaining to License
404.7	Provisions Pertaining to Permits
404.8	Incorporation
404.9	Composition and Responsibilities of the Governing Body
404.10	Finances
404.11	The Administrator
404.12	Administrative Coverage
404.13	Child Care Staff
404.14	Support Personnel
404.15	Substitute Child Care Staff
404.16	Volunteers
404.17	Requirements of Professional Staff
404.18	Medical and Health Services
404.19	Social Work Staff
404.20	Teachers
404.21	Recreation Staff
404.22	Staff Training
404.23	Health Requirements for Staff and Volunteers
404.24	Background Checks inquiry
404.25	Criteria for the Admission of Children
404.26	Admission Preparation Requirements
404.27	Agreements and Consents Between Responsible Parties
404.28	Child Care Groupings
404.29	Discipline of Children
404.30	Controls
404.31	Clothing
404.32	Personal Care and Hygiene
404.33	Allowances
404.34	Education
404.35	Work and Training
404.36	Recreation and Leisure Time
404.37	Health and Safety
404.38	Food and Nutrition
404.39	Professional Services
404.40	Visitation

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 404.41 Community Life
- 404.42 Religion
- 404.43 Termination of Residential Care
- 404.44 Buildings
- 404.45 Grounds
- 404.46 Equipment
- 404.47 Records and Reports
- 404.48 Records Retention
- 404.49 Severability of This Part

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 101].

SOURCE: Adopted and codified at 5 Ill. Reg. 13070, effective November 30, 1981; amended at 7 Ill. Reg. 3424, effective April 4, 1983; amended at 8 Ill. Reg. 22870, effective November 15, 1984; amended at 9 Ill. Reg. 19712, effective December 20, 1985; amended at 11 Ill. Reg. 17504, effective October 15, 1987; amended at 20 Ill. Reg. _____, effective _____.

Section 404.2 Definitions

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois Department of State Police and Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database; and
- a check of child support records to determine whether each licensee or license applicant is delinquent in paying an order of child support.

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care institution" means child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

include:

- any State-operated institution for child care established by legislative action;
- any juvenile detention or shelter care home established and operated by any county or child protection district.
- Any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act [210 ILCS 45];
- any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or elementary and high schools, and which operates on a regular academic school year basis; or
- any facility licensed as a "group home" as defined in the Child Care Act of 1969.

(Section 2.06 of the Child Care Act of 1969 [225 ILCS 10/2.06])

"Child" means any person under 18 years of age.

"Child care institution" means a child care facility in which more than seven children are provided with care or training or both and includes residential schools for ambulatory handicapped children and other residential schools operating a full calendar year--child care institution is further defined in the Child Care Act of 1969--)

"Conditional employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren)) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions which involve contact with children as part of the job duties in the present or prospective employment and who has commenced such duties while awaiting the results of the background check required by this Part.

"Department" means the Department of Children and Family Services.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Child Abuse and Neglect Tracking System (CANTS) and the Law Enforcement Agency Data System (LEADS).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed.

"Licensee" means those individuals, agencies or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing applicant" means those individuals, agencies or organizations who apply for a license or permit issued by the Department of Children and Family Services.

"Licensing representative", for the purpose of this part, means those Department staff authorized under the Child Care Act to examine facilities for licensure.

"Maternity center" means a facility in which any person, agency or corporation, other than one licensed as a foster family home or group home under the Child Care Act, receives, treats or cares for one or more unwed pregnant girls under 18 years of age, except that the term does not include any facility licensed under the Hospital Licensing Act [225 ILCS 10/2.07]. (11/1/79, CH-111-1/27, PAR-142 et seq.)

"Permit" means a one-time only document issued by the Department of Children and Family Services for a six-month period to allow the individual(s), agency or organization to become eligible for a license.

"Persons subject to background checks" means the operator(s) of the child care facility, and all current, conditional and prospective employees of the child care facility, as defined in this Section. If the child care facility operates in a family home, the license applicant(s) and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Supervising agency", for the purpose of this part, means a licensed child welfare agency, as defined in the Child Care Act, which supervises the operation of the child care institution or the Department.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: _____)

Section 404.3 Effective Date of Standards (Repealed)

The standards prescribed in this part shall become effective upon the date they are officially adopted and published and shall apply immediately to all facilities which have never been licensed institutions licensed at the time this part is officially adopted and published shall have one calendar year from that date to comply with the new or revised standards except as specified in Section 404.28.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 404.4 Application for License

a) Application for license shall be completed by the officers of the governing body of the institution, or its authorized representative on forms prescribed and furnished by the Department.

b) For the application to be considered complete, the following shall be attached to the application: Attached to the application shall be:

- 1) articles of incorporation and bylaws, indicating that the institution's corporate status is in good standing with the Illinois Secretary of State and specifying whether the institution is for profit or not-for-profit;
 - 2) a statement of purpose, including the types of child care provided;
 - 3) list of officers, board members and committees of the governing body;
 - 4) operating budget;
 - 5) range of services; and
 - 6) staffing plan which includes job descriptions and the qualifications of staff; and
 - 7) a list of employees subject to the background check requirements of 89 Ill. Adm. Code 385, Background Checks, and each employee's complete, signed authorization to conduct the background check.
- c) A new application shall be filed:
- 1) when an application for license has been withdrawn, and the institution seeks to reapply;
 - 2) there is a change of address of a facility;
 - 3) there is a change of ownership, name or corporate status; or
 - 4) not sooner than 12 months after when the Department has revoked or refused to renew a license, and a new license is sought.
- d) A new application may be submitted at any time a license, permit or application has been voluntarily surrendered or withdrawn by the applicant.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 404.6 Provisions Pertaining to License

- a) A child care institution license is valid for four ~~two~~ years unless revoked by the Department or voluntarily surrendered by the licensee.
- b) The child care institution shall adhere to the provisions specified on the license.
- c) The following changes in licensing status shall occur only upon prior approval of the Department:
 - 1) the age or characteristics type of children served;
 - 2) the licensed capacity; or
 - 3) the area within the institution used for children.
- d) The license shall not be transferred to another person, or other legal entity organization, or sponsor, nor shall it be valid for a name or address other than that shown on the license.
- e) The license capacity of the institution shall not be increased unless the facility is in compliance with licensing standards.
- f) A current license shall be displayed at the institution at all times.
- g) There shall be no fee or charge for the license.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 404.7 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
 - 1) the application for license has been completed and signed by the responsible child care institution and submitted to the Department;
 - 2) written clearances concerning compliance with the fire, health, sanitation, and safety requirements as specified in state laws and municipal codes are received. If well water is used, a copy of the inspection report and certification of compliance with local or state health department regulations is on file;
 - 3) a person in charge of the administration and operation of the child care institution who has passed the background check requirements of 89 Ill. Adm. Code 385, Background Checks has been employed;
 - 4) furnishings, equipment and space sufficient for the number of children to be served have been acquired;
 - 5) child care staff sufficient for the number of children to be served have been hired;
 - 6) a written plan has been filed which requires provision of food, clothing, educational and religious opportunities and health care of children to meet the physical, spiritual, mental and health needs of the children;
 - 7) the facility has established procedures and forms to maintain

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- required and necessary records including records on the children served;
- 8) a written plan on how the requirements for licensure will be met has been developed within the permit period;
 - 9) references and medical reports on all staff, including the administrator, are on file at the institution; and
 - 10) demonstration of financial capability through a projected budget.
- b) A permit shall not be issued retroactively.
 - c) The permit shall not be transferred or transmitted to another person or other legal entity, or organization or sponsor.
 - d) The permit shall not be valid for a name or an address different than the name and address shown on the issued permit.
 - e) The permit shall not be renewable.
 - f) The permit shall be displayed on the premises at all times.
 - g) A license shall be issued any time within the six month period covered by the permit provided the facility achieves and maintains compliance with the Department's licensing standards.
 - h) There will be no fee or charge for issuing the permit.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 404.13 Child Care Staff

- a) There shall be at least one child care supervisor who shall be a full-time employee. The administrator or another person qualified as a child care supervisor may fill the position. The child care supervisor supervises those persons whose primary responsibility is daily care of children, known as child care staff.
- b) Child care supervisors shall have the following qualifications:
 - 1) be at least 25 years of age;
 - 2) have two years of college credits;
 - 3) have two years of full-time experience in a residential child care program;
 - 4) demonstrate skill in working with and managing children of the type served in the program; and
 - 5) demonstrate ability to work cooperatively with administration, staff, and persons external to the program.
- c) Child care workers shall work under the supervision of a child care supervisor and shall have the following qualifications:
 - 1) be at least 18 ~~21~~ years of age, if there is an on-site supervisor. If there is no on-site supervisor, child care staff must be at least 21 years of age;
 - 2) hold a high school diploma or GED certificate;
 - 3) be in good physical and mental health;
 - 4) have the capacity to accept the supervision within the child care program and to relate constructively to authority; and
 - 5) demonstrate the ability to work cooperatively with other staff

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

and a variety of persons external to the program, including representatives of other institutions and agencies and parents of the children.

- d) Child care workers and supervisors employed as of November 30, 1981 by facilities which are licensed ~~when this part is adopted~~ shall be deemed qualified.
- e) At least one-half of the child care workers shall be full-time employees.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 404.24 Background Checks Inquiry

- a) The governing body shall ensure that all prospective and current employees submit to fingerprinting (when required), authorize a background check and otherwise meet the requirements of 89 Ill. Adm. Code 385 (Background Checks).

- b) As a condition of issuance or renewal of a license by the Department, the institution shall require persons subject to background checks ~~at the prospective-and-current-employees-and-at-the-discretion-of-the-governing-body-volunteers-and-subcontractor-employees-who-have-direct-contact-with-children~~ to furnish information on any offenses (other than a minor traffic violation) for which they have been convicted in accordance with the standards set forth in the Department's ~~rule~~ rulemaking, 89 Ill. Adm. Code 385.89-111-Adm-Code-385-18Background Inquiry-for-Purchase-of-Service-Providers.

- c) An employee may begin work while awaiting the results of the background check. Such employees shall not be left alone with children until the results of the initial background check have been received.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 404.47 Records and Reports

- a) The institution shall maintain records on each child receiving services and all agency personnel, and in addition, shall submit certain reports as prescribed by the Department. These records and reports shall be confidential. Authorized representatives of the Department shall have access to the records and reports. All persons with access to the records and reports shall respect their confidential nature.

- b) The institution shall submit to the Department of Children and Family Services such periodic and special reports as may be required.

- c) The institution shall state in the child's record and shall report to the child's parent, guardian and the Department any unusual incidents

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

or serious occurrences involving children. These incidents and occurrences shall be reported in writing, or if made verbally, confirmed in writing within 48 hours of the occurrence. These incidents and occurrences include serious accident or injury requiring extensive medical care or hospitalization; death; arrest; alleged abuse or neglect; major fire or other emergency situations; or any serious incident which results in legal action by or against the institution, which affects any child or children, personnel, or conduct of the institution.

- d) A permanent record and master file card shall be maintained for every child under care which shall include:

- 1) name, birthdate, sex, race, religion and legal status of the child;
 - 2) names, addresses and telephone numbers of parents, significant relatives, guardian, referring agency and social worker;
 - 3) dates of admission and termination of care;
 - 4) information pertaining to the circumstances and reasons for termination of care;
 - 5) names, relationship, address and telephone number of the person(s) with whom the child resides following termination of care;
 - 6) summaries of evaluation conferences; and
 - 7) the child's health, including current health evaluations, medical and dental reports, psychological and psychiatric examination reports, illnesses, treatment and persons providing treatment, charting of medication including type, dosage, time and signature of persons dispensing the medication, any history of alcoholism or drug addiction.
- e) In addition to the permanent record, the institution shall maintain active records containing the admission study and ongoing data including important documents pertaining to birth, family, legal status, school, religious affiliation, health findings and treatment and consents and other documents as appropriate.
- f) Children's records shall also include the child's adjustment, functioning and progress in:
- 1) group interaction; staff and peer relationships;
 - 2) school or work;
 - 3) his special skills, interests and activities;
 - 4) the community;
 - 5) relationship with his family and significant changes in the family;
 - 6) relationship and contacts with guardian, and other agencies;
 - 7) treatment services provided the child;
 - 8) reducing behavioral problems to enable him to live in a less restrictive setting; and
 - 9) interaction with his family during visitation.
- g) Records shall be maintained for all employees and, in addition, for each volunteer who has responsibility for the direct care or

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

supervision of children. These records shall contain all pertinent information relative to character, suitability, qualifications for the position, health, three pre-employment references, history of employment for the last five years, and at a minimum, annual evaluations of performance. Personnel records shall include the date of employment and the date and reason(s) for separation. These records shall be available for Department review.

h) The institution shall maintain and submit reports on staff and volunteers to the Department on forms prescribed by the Department.

1) An individual report on each new employee (including owner, operator, or director) shall be filed with the Department; a copy of this report shall be kept at the facility.

2) All staff changes shall be reported to the Department within ten days after beginning employment. Such reports shall be accompanied by complete, signed authorizations for background checks, as required by 89 Ill. Adm. Code 385, Background Checks, immediately.

3) Copies of documentation of medical information, verification of educational achievement, and character.

i) The institution shall maintain a separate file of responses to the background inquiry required by Section 404.24 and 89 Ill. Adm. Code 350--(Background--Inquiry--For--Purchase-of-Service-Providers)--and the results of the background check required by Section 404.24 and 89 Ill. Adm. Code 385, Background Checks.

j) The institution shall maintain in its official records the major decisions and policies of the governing body or board.

k) Financial records of operations including a copy of the annual independent certified audit shall be maintained as part of the permanent records of the institution.

l) The institution shall provide safe, locked places for maintenance, safe storage and preservation of confidential and business records.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Child Welfare Agencies

2) Code Citation: 89 Ill. Adm. Code 401

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
401.2	Amend
401.3	Repeal
401.4	Amend
401.6	Amend
401.7	Amend
401.17	Amend
401.23	Amend

4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: These amendments require that all prospective and current employees of child welfare agencies submit to fingerprinting. In addition, the references to 89 Ill. Adm. Code 358, Background Inquiry for Purchase of Service Providers have been deleted and replaced by 89 Ill. Adm. Code 385, Background Checks. The amendments also require that a list of all current employees subject to background checks and their authorizations to conduct the background check be attached to the application for a license. Finally, the time period for which a license is valid is being raised from two years to four years.

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #222

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Springfield, IL 62701-1498
 (217) 524-1983
 TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows.

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 Rockford, IL 61108
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April 2, 1996
 7:00 p.m. - 9:00 p.m.
 Quality Inn
 One South Halsted
 Chicago, IL 60661
 (312) 829-5000

Collinsville

April 8, 1996
 7:00 p.m. - 9:00 p.m.
 Quality Inn
 475 North Bluff
 Collinsville, IL 62234
 (618) 344-7171

Marion

May 1, 1996
 7:00 p.m. - 9:00 p.m.
 Marion Holiday Inn
 I-57 and Route 13
 Marion, IL 62959
 (618) 997-2326

Peoria

May 6, 1996
 7:00 p.m. - 9:00 p.m.
 Holiday Inn City Center
 500 Hamilton Boulevard
 Peoria, IL 61602
 (309) 674-2500

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(217) 782-8996

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: For profit child welfare agencies.
- B) Reporting, bookkeeping or other procedures required for compliance: The amendments require child care facilities to have fingerprint checks done on current and prospective employees and to attach to the application for licensure a list of all current and prospective employees subject to background checks and their authorizations to conduct the checks. Facilities will also be required to conduct reviews, upon written requests, of their decisions to deny employment based upon the results of the background checks.
- C) Types of professional skills necessary for compliance? Employers will need to exercise professional judgement in assessing whether individuals convicted or charged with a crime can be employed to provide services which require contact with children.
- 13) Regulatory agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most regulatory agendas: The need for these amendments was not foreseen at the time of the two most recent regulatory agendas.

The full text of the proposed amendment begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 401
LICENSING STANDARDS FOR CHILD WELFARE AGENCIES

Section	Purpose
401.1	Definitions
401.2	Effective Date of Standards (Repealed)
401.3	Application for License
401.4	Provisions Pertaining to License
401.5	Provisions Pertaining to Permit
401.6	Incorporation
401.7	Composition and Responsibilities of the Governing Body
401.8	Finances
401.9	The Administrator
401.10	Social Work Supervisors
401.11	Child Welfare Workers
401.12	Professional Staff
401.13	Support Personnel
401.14	Volunteers
401.15	Background Checks Inquiry
401.16	Legal Safeguards of Children Served
401.17	Required Written Consents
401.18	Agency Responsibility
401.19	Interstate Placement of Children
401.20	Health and Medical Services for Children
401.21	Records and Reports
401.22	Records Retention
401.23	Agency Supervised Foster Family Homes, Group Homes and Day Care and Night Care Homes
401.24	Severability of This Part
401.25	
401.26	

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 11351, effective November 12, 1981; amended at 7 Ill. Reg. 3428, effective April 4, 1983; amended at 11 Ill. Reg. 17511, effective October 15, 1987; amended at 20 Ill. Reg. _____, effective _____.

Section 401.2 Definitions

"Background check" means:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- a criminal history via fingerprints of persons age 18 and over which are submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database; and
- a check of child support records to determine whether each licensee or license applicant is delinquent in paying an order of child support.

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child" means any person under 18 years of age.

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. (Section 2.05 of the Child Care Act of 1969 [225 ILCS 10/2.05])

"Child-care facility" means any person, group of persons, agency, association, or organization, which arranges for or cares for children unrelated to the operator of the facility, apart from the parents, child-care facilities may be established for profit or not for profit. "Child-care facility" is further defined in the Child Care Act.

"Child welfare agency" means a public or private child care facility, receiving any child or children for the purpose of placing or arranging for placement of the child or children in foster family homes or other facilities for child care, apart from the custody of the child's or children's parents. (Section 2.08 of the Child Care Act of 1969 [225 ILCS 10/2.08])

"Child welfare agency" means a public or private child-care facility which receives children for the purpose of placing or arranging for the placement of such children in foster family homes or other child care facilities away from the custody of the child's parents. "Child welfare agency" is further defined in the Child Care Act.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Conditional employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren)) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions which involve contact with children as part of the job duties in the present or prospective employment and who has commenced such duties while awaiting the results of the background check required by this Part.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Department" means the Department of Children and Family Services.

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Child Abuse and Neglect Tracking System (CANTS) and the Law Enforcement Agency Data System (LEADS).

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed.

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing applicant" means those individuals, agencies, or organizations who apply for a license from the Department of Children and Family Services.

"Licensing representative" means, for the purpose of this part, means those Department staff authorized under the Child Care Act to examine facilities for licensure.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a six-month period to allow the individual(s), agency, or organization to become eligible for a license.

"Persons subject to background checks" means the operator(s) of the child care facility, and all current, conditional and prospective employees of the child care facility, as defined in this Section. If the child care facility operates in a family home, the license

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

applicant(s) and all members of the household are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 401.3 Effective Date of Standards (Repealed)

The standards prescribed in this part shall become effective upon the date they are officially adopted and published and shall apply immediately to all facilities which have never been licensed. Child welfare agencies licensed at the time this part is officially adopted and published shall have one calendar year from that date to comply with the new or revised standards.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 401.4 Application for License

a) The application for license shall be completed by the officers of the governing body of the child welfare agency, or its authorized representative, on forms prescribed and furnished by the Department.

b) For the application to be considered complete, the following shall be attached to the application:

- 1) articles of incorporation and by-laws, indicating that the agency's corporate status is in good standing with the Illinois Secretary of State;
- 2) statement of purpose including child care services and the types of child care facilities to be operated and supervised by the agency;
- 3) list of officers, board members and committees of the governing body;
- 4) operating budget;
- 5) range of services; and
- 6) staffing plan which includes job descriptions and the qualifications of the staff; and

7) a list of employees subject to the background check requirements of 89 Ill. Adm. Code 385. Background checks and each employee's complete, signed authorization to conduct the background check.

c) A new application shall be filed:

- 1) when an application for license has been withdrawn, and the agency seeks to reapply;
- 2) when there is a change of address of the child welfare agency;
- 3) when there is a change of name, ownership, or corporate status of the agency; or
- 4) not sooner than 12 months after when the Department has revoked

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

or refused to renew a license, and a new license is sought.

- d) A new application may be submitted at any time when a license, permit or application has been voluntarily surrendered or withdrawn by the applicant.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 401.6 Provisions Pertaining to License

- a) A child welfare agency license is valid for four 2 years unless revoked by the Department or voluntarily surrendered given-up by the licensee.
- b) The child welfare agency shall adhere to the provisions specified on the license.
- c) The license shall not be transferred or transmitted to another person or other legal entity r-organization-or-sponsor.
- d) The license shall not be valid for an address other than the address shown on the license.
- e) The current license shall be displayed at the agency headquarters at all times.
- f) There shall be no fee or charge for the license.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 401.7 Provisions Pertaining to Permit

- a) A permit shall not be issued prior to the following:
- 1) completion of the application for license and submission to the Department;
 - 2) employment of a qualified administrator who has passed the background check requirements of 89 Ill. Adm. Code 385.1 Background Checks and development of a projected staffing plan indicating the time table by which qualified staff shall be hired;
 - 3) established procedures and forms for required records and reports;
 - 4) a written plan which indicates that requirements for a license shall be met within the permit period; and
 - 5) demonstration of financial capability through a projected budget.
- b) A permit shall not be issued retroactively.
- c) The permit shall not be renewable.
- d) The permit shall not be transferred or transmitted to another person or other legal entity r-organization-or-sponsor.
- e) The permit shall not be valid for an address different from the address shown on the issued permit.
- f) The child welfare agency shall adhere to the provisions specified on

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

the permit.

- g) A current permit shall be on display at the agency headquarters at all times.

h) A license shall be issued any time within the six months period covered by the permit provided the facility achieves and maintains compliance with the Department's licensing standards.

- i) There shall be no fee or charge for the permit.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 401.17 Background Checks Inquiry

- a) The governing body shall ensure that all prospective and current employees submit to fingerprinting (when required), authorize a background check and otherwise meet the requirements of 89 Ill. Adm. Code 385.1 Background Checks.
- b) As a condition of issuance or renewal of a license by the Department, the child welfare agency shall require all persons subject to background checks prospective-and-current-employees-and-at-the-discretion-of-the-governing-body-subcontractor-employees-and-volunteers-who-have-direct-contact-with-children to furnish information on any offenses (other than a minor traffic violation) for which they have been convicted in accordance with 89 Ill. Adm. Code 385.10-111-Adm-Code-350-Background-Inquiry-for-Purchase-of-Service Providers.
- c) An employee may begin work while awaiting the results of the background check. Such employees shall not be left alone with children until the results of the initial background check have been received.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 401.23 Records and Reports

- a) The agency shall maintain current records on each child receiving care or services, on agency personnel (including volunteers), and on each facility operating under its supervision.
- b) Records for each child shall include an admission study, legal documents and agreements for care, as required, and case recording reflective of the on-going care and treatment of the child.
- c) At the time a child is discharged from care, records shall include the reason for discharge, the legal status of the child, to whom the child is released or discharged, and any recommendation for the child's future care.
- d) Records shall be maintained on all employees and, in addition, for each volunteer who has responsibility for the care and supervision of

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

children and shall document compliance with Section 401.17, Background Check Inquiry. The records shall contain all pertinent information relative to character, suitability, qualifications for the position, health, three references, and history of employment for the last five years. Personnel records shall include the date of employment and the date and reason(s) for separation. These records shall be available for licensing review.

- e) The child welfare agency shall maintain a separate file of responses to the background inquiry required by Section 401.17 and 89-III--Adm--Code--358.---Background--Inquiry--For--Purchase--of--Service--Providers--and the results of the background check required by Section 401.17 and 89 Ill. Adm. Code 385.7. Background Checks.

- f) The child welfare agency shall maintain and submit reports on staff and volunteers to the Department on forms prescribed by the Department:

1) An individual report on each new employee (including owner, operator, or director) shall be filed with the Department; a copy of this report shall be kept at the agency.

2) All staff changes shall be reported to the Department within ten days after beginning employment. Such reports shall be accompanied by complete, signed authorizations for background checks, as required by 89 Ill. Adm. Code 385, Background Checks, immediately.

3) Copies of documentation of medical information, verification of educational achievement, and character references of employees shall be provided upon request by the Department.

- g) The child welfare agency shall maintain in its official records the major decisions and policies of the governing body or board.

h) Financial records of operations shall be maintained as part of the permanent records of the agency and shall include, a copy of the annual audit.

i) The child welfare agency shall enter in the child's record and orally report immediately to the child's parent, guardian, and the Department any serious occurrences involving children. If the agency is unable to contact the parent, guardian or Department immediately, it shall document this fact in the child's record. These occurrences include serious accident or injury requiring extensive medical care or hospitalization; death; arrest; alleged abuse or neglect; major fire or other emergency situations; movement of the child welfare agency which affects any child or children, personnel, or the conduct of the agency. Oral reports shall be confirmed in writing within two working days of the occurrence.

j) Records shall be kept in safe, locked places.

k) Authorized Department licensing representatives or other Department representatives who have the Director's written authorization shall have access to the records and reports. All persons who have access to the records and reports shall respect their confidential nature.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Day Care Agencies

2) Code Citation: 89 Ill. Adm. Code 405

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
405.2	Amend
405.3	Repeal
405.4	Amend
405.6	Amend
405.7	Amend
405.12	Amend
405.13	Amend
405.15	Amend
405.18	Amend
405.19	Amend

4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: These proposed amendments require all prospective and current employees of a day care agency to authorize a criminal background check. The amendments also require that a list of all current employees subject to background checks and their authorizations to conduct the background check be attached to the application for a license. In addition, the time period for which a license is valid is being increased from two years to three years.

Finally, references to group day care homes have been added to the rules wherever appropriate.

6) Will these proposed amendments replace an emergency rule currently in effect? No

7) Do these proposed amendments contain incorporations by reference? No

8) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

406 East Monroe Street, Station #222
Springfield, IL 62701-1498
(217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows:

Rockford Chicago

April 1, 1996	April 2, 1996
7:00 p.m. - 9:00 p.m.	7:00 p.m. - 9:00 p.m.
Sweden House	Quality Inn
4605 East State	One South Halsted
Rockford, IL 61108	Chicago, IL 60661
(815) 398-4130	(312) 829-5000

Springfield

Collinsville

April 4, 1996	April 8, 1996
7:00 p.m. - 9:00 p.m.	7:00 p.m. - 9:00 p.m.
State House	Quality Inn
Room 114	475 North Bluff
Springfield, IL 62706	Collinsville, IL 62234
(217) 782-8223	(618) 344-7171

Chicago

Marion

April 30, 1996	May 1, 1996
2:00 p.m. - 4:00 p.m.	7:00 p.m. - 9:00 p.m.
James Thompson Center Auditorium	Marion Holiday Inn
100 W. Randolph	I-57 and Route 13
Chicago, IL 60601	Marion, IL 62959
(312) 814-4650	(618) 997-2326

Springfield

Peoria

May 8, 1996	May 6, 1996
2:00 p.m. - 4:00 p.m.	7:00 p.m. - 9:00 p.m.
Howlett Building	Holiday Inn City Center

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1st Floor Auditorium
2nd and Edwards
Springfield, IL 62706
(217) 782-8996

500 Hamilton Boulevard
Peoria, IL 61602
(309) 674-2500

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Day care agencies.

B) Reporting, bookkeeping, or other procedures required for compliance:
The amendments require day care agencies to have criminal background checks conducted on current and prospective employees and to attach a list of all employees subject to background checks to the application for a license.

C) Types of professional skills necessary for compliance: Day care agencies will need to exercise good judgement in assessing whether individuals convicted or charged with a crime are suitable for employment in a day care agency.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two (2) most recent agendas because: The Department had not decided to implement the background check requirement when the last set of regulatory agendas were due.

The full text of the proposed amendment begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 405

LICENSING STANDARDS FOR DAY CARE AGENCIES

Section

Section	Purpose
405.1	Purpose
405.2	Definitions
405.3	Effective Date (Repealed)
405.4	Application for License
405.5	Application for Renewal of License
405.6	Provisions Pertaining to License
405.7	Provisions Pertaining to Permits
405.8	Responsibilities of the Governing Body
405.9	Finances
405.10	Day Care Agency Administrator
405.11	Staff Examining Day Care Homes
405.12	Background Checks Inquiry
405.13	Recommendation for Licensure of Day Care Homes and Group Day Care Homes
405.14	License-exempt Day Care Homes
405.15	Supervision of Homes
405.16	Administrative Services
405.17	Referral of Children
405.18	Agreements with Day Care Homes and Group Day Care Homes
405.19	Records and Reports
405.20	Confidentiality of Records
405.21	Records Retention
405.22	Cooperation with the Department
405.23	Severability of This Part

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]

SOURCE: Adopted and codified at 7 Ill. Reg. 7827, effective July 1, 1983; amended at 8 Ill. Reg. 8707, effective June 15, 1984; amended at 11 Ill. Reg. 17516, effective October 15, 1987; amended at 20 Ill. Reg. _____, effective _____.

Section 405.2 Definitions

"Accredited" means accredited by the North Central Association of Schools and Colleges, its regional counterparts, or the National Accreditation Council.

"Background check" means:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database; and
- a check of child support records to determine whether each licensee or license applicant is delinquent in paying an order of child support.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Illinois Department of Children and Family Services.

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

~~"Child-care facility" means any person, group of persons, agency, association or organization which arranges for or cares for children unrelated to the operator of the facility, apart from the parents, in any facility as defined in the Act; Child-care facilities may be established for profit or not for profit.~~

~~"Child-care facility" is further defined in the Child-Care Act of 1969. "Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. (Section 2.05 of the Child Care Act of 1969 [225 ILCS 10/2.05])~~

~~"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])~~

~~"Day care agency" means any person, group of persons, public or private agency, association or organization which undertakes to provide one or more day care homes or group day care homes with administrative services including, but not limited to consultation,~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~technical assistance, training, supervision, evaluation, and provision of or referral to health and social services under contractual arrangement.~~

~~"Day care center" means any child care facility which regularly provides day care for less than 24 hours per day for more than 8 children in a family home and that are not licensed as a day care home or group day care home, or more than 3 children in a facility other than a family home. Exclusions from this definition are listed in Section 2.09 of The Child Care Act of 1969.~~

~~"Day care homes" means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. [225 ILCS 10/2.18]~~

~~"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969 [225 ILCS 2.02])~~

~~"Employee", as used in this Part, means any staff person employed by a child care facility, and includes any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of children. This definition includes administrative, professional and other support staff who have contact with children as part of the duties in the present or prospective employment. "Employee" means a paid member of the staff of the day care agency.~~

~~"Group day care home" means a family home which receives more than 3 up to 16 children for less than 24 hours per day. The number counted includes the family's natural, foster, or adopted children and all other persons under the age of 12. [225 ILCS 10/2.20]~~

~~"Governing body," as used in this Part, means the board of directors of a corporation; otherwise, the term means the owner(s) or other person(s), agency, association or organization legally responsible for the operation of the day care agency.~~

~~"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Child Abuse and Neglect Tracking System (CANTS) and the Law Enforcement Agency Data System (LEADS).~~

~~"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

d) A new application shall be filed:

- 1) When an application for license has been withdrawn, and the agency seeks to reapply;
- 2) When there is a change of address of the day care agency;
- 3) When there is a change of name, ownership or corporate status of the agency; or
- 4) Not sooner than 12 months after when the Department has revoked or refused to renew a license, and a new license is sought.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 405.6 Provisions Pertaining to License

- a) A day care agency license is valid for 3 years unless revoked by the Department or voluntarily surrendered by the licensee.
- b) The license shall not be transferred or transmitted to another person or other legal entity ~~7-organization-or-sponsor~~.
- c) The license shall not be valid for a name or an address other than the name or address shown on the license.
- d) The current license shall be displayed at the agency headquarters at all times.
- e) There shall be no fee or charge for the license.
- f) Unless a day care agency is in compliance with the standards prescribed by this part, it shall not expand its services or increase the number of homes under its supervision.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 405.7 Provisions Pertaining to Permits

- a) A permit shall not be issued prior to the the following:
 - 1) Completion of the application for license and submission to the Department;
 - 2) Employment of an administrator who meets the standards set forth in Section 405.10 and who has passed the background check requirements of 89 Ill. Adm. Code 385, Background Checks and development of a projected staffing plan indicating the timetable by which qualified staff shall be hired;
 - 3) Established procedures and forms for records and reports required by Sections 405.18, 405.19~~47~~ and 405.20~~47~~;
 - 4) A written plan which indicates that requirements for a license shall be met within the permit period; and
 - 5) Demonstration of financial capability through an annual projected budget showing anticipated operating expenses and income.
- b) A permit shall not be issued retroactively.
- c) The permit shall not be renewable.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- d) The permit shall not be transferred or transmitted to another person or other legal entity ~~7-organization-or-sponsor~~.
- e) The permit shall not be valid for a name or an address different from the name or address shown on the issued permit.
- f) A current permit shall be on display at the agency headquarters at all times while the agency is operating under a permit.
- g) A license shall be issued anytime within the six months period covered by the permit provided the facility achieves and maintains compliance with the standards prescribed by this Part.
- h) There shall be no fee or charge for the permit.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 405.12 Background Checks Inquiry

- a) The governing body shall ensure that all prospective and current employees submit to fingerprinting (when required), authorize a background check and otherwise meet the requirements of 89 Ill. Adm. Code 385, Background Checks.
- b) As a condition of issuance or renewal of a license by the Department, the day care agency shall require persons subject to background checks ~~all-prospective-and-current-employees-who-have-direct-contact-with children to furnish written information on any offenses (other than a minor traffic violation) for which they have been convicted in accordance with 89 Ill. Adm. Code 385, 358--(Background-Inquiry-for Purchase--of--Service--Providers)---The--governing-body--at--the discretion--may-require-volunteers--and--subcontractor--employees--who have--direct--contact--with--children--to-respond-to-written-questions about-their-backgrounds-~~
- c) An employee may begin work while awaiting the results of the background check. Such employees shall not be left alone with children until the results of the initial background check have been received.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 405.13 Recommendation for Licensure of Day Care Homes and Group Day Care Homes

- a) Day care homes and group day care homes which require a license and are supervised by a day care agency shall be licensed in accordance with 89 Ill. Adm. Code 406~~47~~. Licensing Standards For Day Care Homes or 89 Ill. Adm. Code 408, Licensing Standards for Group Day Care Homes, as applicable.
- b) Applications and recommendations for the licensure of day care homes and group day care homes supervised by a day care agency shall be

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

made to the Department by the agency in accordance with the applicable licensing standards 89--111--Adm--Code-406--~~licensing-standards-for Day-Care-Homes~~ on forms provided by the Department.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 405.15 Supervision of Homes

- a) The day care agency shall be responsible for the supervision of each day care home or group day care home licensed upon the agency's recommendation.
- b) Supervisory visits to the day care home or group day care home shall be made at least quarterly to assist day care homes and group day care homes in meeting and maintaining the standards prescribed in their licensing standards 89--111--Adm--Code-406--~~licensing-standards-for Day-Care-Homes~~. Each visit and the findings shall be documented in the agency's record of the day care home.
- c) The day care agency shall be responsible for assuring that licensed day care homes and group day care homes supervised by it continue to meet licensing standards and shall recommend to the Department the revocation of a license or permit or the refusal to renew the license of any day care home which fails to meet standards or otherwise violates the Child Care Act of 1969.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 405.18 Agreements with Day Care Homes and Group Day Care Homes

- a) A day care agency may provide substitute caregivers and may meet recordkeeping and reporting requirements set forth in 89 Ill. Adm. Code 406.7 Licensing Standards For Day Care Homes or 89 Ill. Adm. Code 408, Licensing Standards for Group Day Care Homes, as appropriate. The agency shall clearly state in its policies and agreements with day care homes or group day care homes which standards it assumes responsibility for meeting.
- b) Prior to referring a child to a day care home or group day care home, the agency shall have a written agreement with the home provider. The agreement shall specify at minimum the following and the Day Care Agency Administrator shall be responsible for assuring that the terms are met:
 - 1) Agency services to be provided to the day care home/group day care home;
 - 2) The agency's role in planning a program to meet the needs of each child;
 - 3) The agency's role in planning for regular conferences with the parent(s) of children in care, the day care home providers and,

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

if applicable, school and other community agencies involved in providing care and services to the child;

- 4) Procedures for referring children to a day care home or group day care home, if applicable;
 - 5) The agency's role in planning for substitute care;
 - 6) Whether the home may accept a child from any source other than the agency;
 - 7) That the home shall release a child only to person(s) designated in the written agreement;
 - 8) The agency's responsibility for recommending licensure and providing supervision of the day care home; and
 - 9) Procedures for keeping records and making reports to the agency.
- c) The day care agency shall have a written agreement between the agency, the day care home or group day care home, and child's parent(s) or guardian which shall include but not be limited to:
- 1) rate and schedule of payment for day care services,
 - 2) responsibility for payment to the day care home,
 - 3) liability for a delinquent or unpaid fee, and
 - 4) any fees assessed for agency services.
- d) The agreement must be signed by the parent(s) or guardian, day care home or group day care home provider, and an authorized representative of the day care agency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 405.19 Records and Reports

- a) The agency shall maintain current records, as delineated in this Section, on each child receiving care or services, on agency personnel (including volunteers), and on each facility operating under its supervision.
- b) Records for each child shall include written agreements as required by Section 405.18(b) and (c).
- c) Records shall be maintained on all employees and shall contain all pertinent information relative to character, suitability, and qualifications for the position; health; three verified character references; history of employment for the previous five years; date of employment by the day care agency; and, if applicable, date and reason(s) for separation from the day care agency.
- d) The day care agency shall maintain a separate file of responses-to-the-background-inquiry-required-by-Section-405.12-and-89--111--Adm--Code-350--~~background-inquiry-for-purchase-of-service-providers~~ and the results of the background check required by Section 405.12 and 89 Ill. Adm. Code 385.7 ~~Background Checks~~.
- e) The day care agency shall maintain and submit reports on staff and volunteers to the Department on forms provided by the Department.
 - 1) An individual report on each new employee (including owner,

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

operator, or directors) shall be filed with the Department; a copy of this report shall be kept at the agency.

- 2) All staff changes shall be reported to the Department within two business days after beginning employment. Such reports shall be accompanied by complete, signed authorizations for background checks, as required by 89 Ill. Adm. Code 385, Background Checks immediately.

- 3) Copies of documentation of medical information, verification of educational achievement, and character references of employees shall be provided upon request by the Department.

- f) The day care agency shall maintain a file on each day care home under its supervision. The file shall contain, but not be limited to, the following information:

- 1) A copy of the day care home's application for a license.
- 2) All licensing studies and related documents and findings, including the agency's recommendation regarding the licensing of the home.

- 3) Copy of the day care home license.

- 4) Reports from supervisory visits.

- g) Financial records of operations shall be maintained as part of the permanent records of the agency.

- h) The day care agency shall enter in the child's record and orally report immediately to the child's parent, guardian, and the Department any serious occurrences involving children. Oral reports shall be confirmed in writing within two working days of the occurrence. If the agency is unable to contact the parent, guardian or Department immediately, it shall document this fact in the child's record. These occurrences include serious accident or injury requiring extensive medical care or hospitalization; death; arrest; alleged abuse or neglect; major fire or other emergency situations.

- i) Evidence of child abuse or neglect shall be reported immediately in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5]. ~~4111-Rev--Stat--1985--ch--23--pars--2851-et-seq--7~~

- j) Records shall be kept in safe, locked places.

- k) Authorized Department licensing representatives or other Department representatives who have the Director's written authorization which specifies the statutory authority or administrative rule under which the access is granted shall have access to records and reports. All persons who have access to the records and reports shall respect their confidential nature.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Day Care Homes

- 2) Code Citation: 89 Ill. Adm. Code 406

- 3) Section Numbers:

<u>Section Numbers:</u>	<u>Proposed Action:</u>
406.2	Amend
406.3	Repeal
406.4	Amend
406.6	Amend
406.7	Amend
406.9	Amend
406.12	Amend
406.14	Amend
406.Appendix C	New

- 4) Statutory Authority: Public Act 89-274 and the Child Care Act of 1969 [225 ILCS 10]

- 5) A Complete Description of the Subjects and Issues Involved: Public Act 89-274 amended the Child Care Act of 1969 to require that at least one staff member certified in first aid, in the Heimlich maneuver, and in cardiopulmonary resuscitation be on the premises of day care homes and group day care homes during the hours of operation. This requirement is being added to the day care home licensing standards.

In addition, these amendments require all prospective and current employees of a day care home and all members of the household age 13 and over from which a day care home operates to authorize a criminal background check. The amendments also provide criteria for assessing the impact of an indicated report of child abuse/neglect or a criminal history in determining the suitability of a person for employment in a day care home.

Finally, the time period for which a license is valid is being increased from two years to three years.

- 6) Will these proposed amendments replace an emergency rule currently in effect? No

- 7) Do these proposed amendments contain incorporations by reference? No

- 8) Are there any proposed amendments to this Part pending? No

- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Proposed rulemaking:

Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham

Chief, Office of Rules and Procedures

Department of Children and Family Services

406 East Monroe Street, Station #222

Springfield, Illinois, 62701-1498

Telephone: (217) 524-1983

TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows:

Rockford

April 1, 1996

7:00 p.m. - 9:00 p.m.

Sweden House

4605 East State

Rockford, IL 61108

(815) 398-4130

Springfield

April 4, 1996

7:00 p.m. - 9:00 p.m.

State House

Room 114

Springfield, IL 62706

(217) 782-8223

Chicago

April 30, 1996

2:00 p.m. - 4:00 p.m.

James Thompson Center Auditorium

May 1, 1996

7:00 p.m. - 9:00 p.m.

Marion Holiday Inn

Chicago

April 2, 1996

7:00 p.m. - 9:00 p.m.

Quality Inn

One South Halsted

Chicago, IL 60661

(312) 829-5000

Collinsville

April 8, 1996

7:00 p.m. - 9:00 p.m.

Quality Inn

475 North Bluff

Collinsville, IL 62234

(618) 344-7171

Marion

May 1, 1996

7:00 p.m. - 9:00 p.m.

Marion Holiday Inn

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

100 W. Randolph

Chicago, IL

(312) 814-4650

Springfield

I-57 and Route 13

Marion, IL

(618) 997-2326

Peoria

May 8, 1996

2:00 p.m. - 4:00 p.m.

Howlett Building

1st Floor Auditorium

2nd and Edwards

Springfield, IL 62706

(217) 782-8996

May 6, 1996

7:00 p.m. - 9:00 p.m.

Holiday Inn City Center

500 Hamilton Boulevard

Peoria, IL

(309) 674-2500

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Licensed day care homes

B) Reporting, bookkeeping, or other procedures required for compliance:
The amendments require day care homes to have criminal background checks conducted on current and prospective employees and all members of the household age 13 and over.

C) Types of professional skills necessary for compliance: Day care home operators will need to exercise good judgement in assessing whether individuals convicted or charged with a crime are suitable for employment in a day care home.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Public Act 89-274 had not been signed into law when the last set of regulatory agendas were due.

The full text of the proposed amendment begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 406
 LICENSING STANDARDS FOR DAY CARE HOMES

Section	
406.1	Purpose
406.2	Definitions
406.3	Effective Date of Standards (Repealed)
406.4	Application for License
406.5	Application for Renewal of License
406.6	Provisions Pertaining to the License
406.7	Provisions Pertaining to Permits
406.8	General Requirements for Day Care Homes
406.9	Characteristics and Qualifications of the Day Care Family
406.10	Qualifications for Assistants
406.11	Substitutes
406.12	Admission and Discharge Procedures
406.13	Number and Ages of Children Served
406.14	Health and Medical Care
406.15	Discipline of Children
406.16	Activity Requirements
406.17	Nutrition and Meals
406.18	Transportation of Children By Day Care Home
406.19	Swimming
406.20	Children with Special Needs
406.21	School Age Children
406.22	Children Under 30 Months of Age
406.23	Night Care
406.24	Records and Reports
406.25	Confidentiality of Records and Information
406.26	Cooperation with the Department
406.27	Severability of This Part
APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
APPENDIX C	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Day Care Home

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], and Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088,

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 406.2 Definitions

"Adult" means any person who is 18 years of age or older.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2].

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons age 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database; and
- a check of child support records to determine whether each licensee or license applicant is delinquent in paying an order of child support.

"Caregiver" means the individual directly responsible for child care.

"Child-care facility" means any person-group of persons-agency

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

association or organization, which arranges for care, or cares, for children unrelated to the operator of the facility, apart from the parents in any facility as defined in the Act; child care facilities may be established for profit or not for profit; child care facility is further defined in paragraph 2-05 in the Child Care Act of 1969.

"Children with special needs" means children exhibit one or more of the following characteristics which is confirmed by clinical evaluation:

Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.

Hearing impairment: the child's residual hearing is not sufficient to enable understanding the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited which prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.

Physical or health impairment: the child exhibits a physical or health impairment which requires adaptation of the physical plant.

Speech and/or language impairment: the child exhibits deviations of speech and/or language processes which are outside the range of acceptable variation within a given environment and which prevent full social development.

Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.

Behavioral disability: the child exhibits an effective disability and/or maladaptive behavior which significantly interferes with learning and/or social functioning.

Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Conditional employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren)) who has applied for and been conditionally selected to perform child care, administrative, professional, or support functions which involve

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

contact with children as part of the job duties in the present or prospective employment and who has commenced such duties while awaiting the results of the background check required by this Part.

"Consultants" means those individuals providing technical assistance or advice regarding any aspect of the operation of the day care home.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Day care homes" means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The maximum of 12 children includes the family's natural, foster, or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Department" means the Illinois Department of Children and Family Services.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Grade level" means not more than 4 feet above or 4 feet below ground level.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any surface which is not above or below the ground.

"Guardian" means the guardian of the person of a minor.

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Child Abuse and Neglect Tracking System (CANTS) and the Law Enforcement Agency Data System (LEADS).

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of The Child Care Act of 1969.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed.

"License study," as used in this Part, means the review of an application for license, on-site visit(s), interviews, and the collection and review of supporting documents to determine compliance with The Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the maximum number of day care children under age 12 permitted in the home at any one time. Children age 12 and over on the premises are not considered in determining license capacity.

"Licensing representative" for the purposes of this Part, means those Department staff or other persons authorized under Section 5 of The Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in the household of a family home as evidenced by maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation", as used in this Part, means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Parents," as used in this Part, means those person(s) assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit," as used in this Part, means a one-time only document issued by the Department of Children and Family Services for a two-month period to allow the individual(s) to become eligible for a license.

"Person" means any individual, group of persons, agency, association, or organization.

"Persons subject to background checks" means the operator(s) of the child care facility, and all current, conditional and prospective employees of the child care facility, as defined in this Section. If the child care facility operates in a family home, the license applicant(s) and all members of the household are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the day care home wherein the family resides and includes the attached yard, garage, and any other out-buildings.

"Program" means all activities provided for the children during their hours of attendance in the home.

"Protected exit from a basement" means an exit which is separated from the remainder of the day care home by barriers (such as walls, floors, or doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

~~"Related" means any of the following relationships: by blood, marriage or adoption; parent; grandparent; great-grandparent; great-uncle; great-aunt; brother; sister; stepbrother; stepsister; uncle; aunt; nephew; niece or first cousin.~~

"School age" means children from 6 to 12 years of age and five year olds who are in full-day kindergarten.

"Special use areas" means areas of the home which may not be included in the measurements of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Supervising agency," as used in this Part, means a licensed child welfare agency, a licensed day care agency, or the Department of Children and Family Services.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 406.3 Effective Date of Standards (Repealed)

~~The standards prescribed in this Part shall become effective upon the date they are officially adopted and published and shall apply immediately to all day care homes which are not currently licensed. Day care homes licensed at the time these rules are officially adopted and published shall have 6 months from that date to comply with the new or revised standards.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 406.4 Application for License

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- a) Application for license as a day care home shall be completed, signed by the day care home applicant(s), and filed with the Department of Children and Family Services by the supervising agency on forms prescribed by the Department.
- b) Applicant(s) shall provide the supervising agency:
- 1) the names, addresses and telephone numbers of at least three (3) adults not related to them who can attest to their character and suitability to provide child care;
 - 2) a list of prospective or current employees who will be working in the day care home, including any substitutes and assistants, and members of the household age 13 and over; and
 - 3) complete, signed authorizations to conduct the background check for each prospective or current employee and each member of the household age 13 and over.

- c) The supervising agency shall study each day care home under its supervision before recommending issuance of a license. The licensing study shall be conducted by a licensing representative and shall be reviewed and approved by his/her supervisor. Supervisory approval indicates recommendation for license or denial of a license and compliance or non-compliance with the standards prescribed by this Part. The study shall be in writing and shall be signed by the licensing representative performing the study and by his/her supervisor. The applicant shall receive a copy of the license study upon written request and payment of copying costs.

- d) A new application shall be filed when any of the following occurs:
- 1) When an application for a license has been withdrawn, and the licensee or agency seeks to reapply; or
 - 2) When there is a change in the name of the licensee, the location of the day care home, or the supervising agency; or
 - 3) When there is a change in the status of joint licensees, such as separation, divorce or death; or
 - 4) Not sooner than 12 months after when the Department has revoked or refused to renew a license and a new license is sought.
- e) Approval of the supervising agency is required to effect changes in the license capacity or the ages of children served in conformance with the requirements of Section 406.13.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 406.6 Provisions Pertaining to the License

- a) A day care home license is valid for three years unless revoked by the Department or voluntarily surrendered by the licensee.
- b) The number of children under age 12 cared for in the day care home at any one time shall not exceed the license capacity. However, the caregiver may accept one additional school-age child in accordance with Section 406.13(e), as long as the total number of children in the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- home under age 12 does not exceed 12 children.
- c) The age limits specified on the license shall be observed, unless the licensee has submitted a transition plan to the Department in accordance with Section 406.13(f) in order to keep members of a sibling group together and the Department has approved the plan.
- d) Child care may be provided only in those areas specified on the license.
- e) The license is valid only for the family residence of the licensee and shall not be transferred to another person or other legal entity.
- f) The license shall not be valid for a name or location other than the name and location on the license.
- g) The license shall be prominently displayed in the home at all times.
- h) There shall be no fee or charge for the license.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 406.7 Provisions Pertaining to Permits

- a) A permit shall not be issued until:

- 1) The application for license has been completed and signed by the applicant(s) and submitted to the Department;
- 2) Character references have been requested, and at least two favorable references have been received and the results of the background check have been received for the operator of the day care home;
- 3) A personal visit to the home by a licensing representative has been completed. The purpose of this visit is to determine compliance with all the licensing requirements except the requirements for remaining character references, medical examination reports, and well water tests compliance which may be complied with within the two month period covered by the permit. However, when well water tests are required, applicants must agree to boil all drinking and cooking water and to provide only bottled water for children under 15 months of age until the test results are received;
- 4) A written plan has been submitted to the licensing representative which indicates that requirements for a license shall be met within the two month permit period.

- b) A permit shall not be issued retroactively.
- c) Permits shall not be transferred to another person or other legal entity--organization-or-supervising-agency.
- d) Permits shall not be valid for a name or location different from the name and location shown on the issued permit.
- e) Permits shall not be renewable.
- f) A current permit shall be available in the day care home at all times while the home is operating under a permit.
- g) A license shall be issued at any time within the two month period

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

covered by the permit provided that the day care home achieves and maintains compliance with the Department's licensing standards.

- h) The day care home shall adhere to the provisions or restrictions specified on the permit.
- i) There shall be no fee or charge for the permit.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 406.9 Characteristics and Qualifications of the Day Care Family

- a) No individual may receive a license from the Department when the applicant, a an adult member of the household age 13 and over, or any individual who comes in regular or frequent contact with the children cared for in a day care home, or any employee of the day care home, has not authorized the background check required by 89 Ill. Adm. Code 385, Background Checks and been cleared in accordance with the requirements of Part 385. has been determined to be a perpetrator of child abuse or neglect under Section 3 of the Abused and Neglected Child Reporting Act (325-1BES-5/3) and who has been identified through circuit court (juvenile/criminal/civil) proceeding as having been a perpetrator of child abuse or neglect based on any one of the following:

- b) Employees subject to background checks may begin employment on a conditional basis while awaiting the results of the background check. Such employees may not be alone with children until the results of the initial background check have been received.

- c) Persons who have been the perpetrator of certain types of child abuse or neglect or who have committed or attempted to commit certain crimes may not be licensed to operate a day care home, be a member of the household of a family home in which a day care home operates, or be an employee or volunteer in a day care home. These allegations/criminal convictions are listed in Appendix C of this Part.

- d) Day care homes shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representative(s). Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:

- 1) death in the family of the person;
 - 2) serious illness of the person or illness in the person's immediate family; or
 - 3) weather or transportation emergencies.
- 1) Death
- 2) Brain damage or skull fracture
- 3) Subdural hematoma

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 4) Internal injuries
- 5) Wounds (gunshot/knife or puncture)
- 6) Torture

- 7) Sexually transmitted diseases
- 8) Sexual penetration

- 9) Sexual molestation
- 10) Sexual exploitation

- 11) Failure to thrive
- 12) Malnutrition

- 13) Medical neglect of disabled infant

- b) For the purposes of Section 406.9(a) identification through circuit court proceedings includes:

- 1) specific findings by a court that a child's abuse or neglect or dependency is the result of physical abuse inflicted by a parent, guardian or legal custodian or other person responsible for the child's welfare (as defined by Section 4 of the Abused and Neglected Child Reporting Act (325-1BES-5/3).

- 2) of sentence imposed or amount of damages recovered for offenses relating to child abuse or neglect or child sexual abuse resulting from jury trial or bench (court) trial or voluntary guilty pleas

- c) Prior to denying an individual a license or employment pursuant to subsection (a) the Department shall notify by certified mail the individual that he or she has been identified as a perpetrator of child abuse or neglect as described in subsection (a) above and the Department shall provide the individual an opportunity to demonstrate that he or she is other than the individual identified in the court finding criminal conviction or civil judgment

- d) An individual requesting an opportunity for review pursuant to subsection (c) above shall submit such request in writing to the Department or the child care facility as applicable within ten (10) days of receipt of written notice of the Department's intent to deny a license or the Department's or child care facility's intent to deny employment. The individual shall be notified in writing of the date, time and location of the review. The individual may be represented by counsel of his or her choice and may present evidence and/or witnesses on his or her behalf. The individual shall be required to produce evidence that he or she is not the individual identified in the court finding criminal conviction or civil judgment. The Department has relied upon in making the identification. Evidence to be considered shall be limited to:

- 1) fingerprints processed through the U.S. Justice Department and the Illinois Department of State Police indicating an absence of a conviction arising from child abuse or neglect identified in subsection (a) above; or

- 2) Sworn statements from the law enforcement agency or clerk of the court upon whom the Department has relied for the identification

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- that the subject of the report provided to the Department is not the individual seeking licensure or employment.
- e) Except as provided in subsection (a) above, a person determined to be the perpetrator of an indicated incident of abuse or neglect under Section 3 of the Abused and Neglected Child Reporting Act shall not automatically be denied a license from the Department or be denied employment in a day care home licensed by the Department. Rather, the individual shall be given an opportunity to present evidence which demonstrates fitness for licensure or employment. Such evidence shall include, but not be limited to:
- 1) the nature of the abuse or neglect with which the individual was identified, including whether the abuse or neglect resulted in serious injury or death to a child or children;
 - 2) the circumstances surrounding the commission of the abuse or neglect, including the age of the perpetrator and the child(ren) that would demonstrate an unlikelihood of repetition;
 - 3) the period of time that has elapsed since the abuse or neglect occurred and whether prior incidents of child abuse or neglect have been indicated against the individual;
 - 4) whether the abuse or neglect involved a single or multiple child victims;
 - 5) the relationship of the incident of child abuse or neglect to the individual's current or prospective responsibilities within the day care home;
 - 6) evidence of rehabilitation such as employment, education, participation in therapy since the indicated incident(s) of abuse or neglect, and
 - 7) character references.
- f) Except as stated in Section 406.9(a) and Section 4-2 of the Child Care Act of 1969 (25 ILCS 10/4.2), an individual convicted of a crime with not automatically be prohibited from contact with children cared for in a day care home solely because of the conviction. Instead, the individual shall be given an opportunity to present evidence which demonstrates fitness for contact with children receiving day care. Such evidence shall include, but is not limited to:
- 1) the type of crime for which the individual was convicted;
 - 2) the number of times for which the individual was convicted;
 - 3) the nature of the offense(s);
 - 4) the age of the individual at the time of conviction;
 - 5) the length of time that has elapsed since the last conviction;
 - 6) the relationship of the crime and the capacity to care for children;
 - 7) Evidence of rehabilitation; and
 - 8) Opinions of community members concerning the individual in question.

e) As a condition of licensure, each licensee or license applicant must certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license. (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])

- f) If the licensee(s) or license applicant(s) acknowledge that they are more than 30 days delinquent in complying with an order for child support or, upon completion of the background check, the licensee(s) or license applicant(s) are found to be delinquent despite their certification, the Department shall deny the application for license, refuse to renew the license, or revoke the license unless the licensee(s) or license applicant(s) arrange for payment of past due and current child support and pay child support in accordance with that agreement.
- g) Members of the household who have contact with the children in care shall treat them with respect, courtesy, and patience.
- h) The beginning is responsible for the day-to-day operation of the day care home in accordance with the standards prescribed in this Part.
- i) The beginning(s) in a day care home shall be at least 18 years of age.
- j) The caregivers and all members of the household shall provide medical evidence as required by Section 406.24(h) that they are free of reportable communicable disease, and, in the case of caregivers, free of physical or mental conditions which could interfere with the child care responsibilities.
- k) During the hours of operation of the day care home, there shall be at least one person on the premises certified in first-aid, the Heimlich maneuver and cardiopulmonary resuscitation by the American Red Cross or the American Heart Association. The caregiver(s) shall have on file current certificates attesting to the training. Currently licensed day care homes have six months to obtain the required certification in first-aid. The licensee shall be certified in the Heimlich maneuver and infant child CPR if the day care home accepts children eight years of age and older. The licensee also shall be certified in adult CPR. The licensee shall maintain current certification. Currently licensed day care homes have one year from the effective date of these amendments to obtain their certification in CPR and the Heimlich maneuver. Any such training shall meet the standards of the American Heart Association or the American Red Cross.
- l) Through interaction with the licensing representative, children, parent(s) or guardian of children in care and operation of the day care home in accordance with standards prescribed by this Part, caregivers shall exhibit competence in the following specific areas:
- 1) Knowledge of basic hygiene, safety, and nutrition.
 - 2) The ability to relate comfortably with parents and to communicate with them on differences in caregiving methods, values, and goals.
 - 3) The ability to communicate with children.
 - 4) The ability to set realistic controls for children and to enforce these without harshness or physical abuse.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 5) Knowledge of the child's need to explore and manipulate and the willingness to provide and maintain a home where children can enjoy living and learning.

- m) The beginning(s) may not be employed outside the home during the hours that child care is being provided.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 406.12 Admission and Discharge Procedures

- a) Children served in a day care home shall not remain on the premises for more than 12 hours in any 24-hour period, unless the parent's employment schedule requires more than 12 hours of day care. At no time shall children cared for in a day care facility remain on the premises for 24 consecutive hours.

- b) Prior to acceptance of a child for care, the caregiver shall require that the parent or guardian accompany the child to the home to become acquainted with the caregiver and with the service to be provided. No child under six years of age may be admitted to the day care home unless the health examination, complete with lead risk assessment, if the child resides in an area defined as low risk by the Illinois Department of Public Health or a screening for lead poisoning, if the child resides in an area defined as high risk by the Illinois Department of Public Health, ~~screening~~ has been completed as required by Department of Public Health rules 77 Ill. Adm. Code 665, Child Health Examination.

- c) The parent(s) or guardian shall be permitted to visit the home, without prior notice, during the hours their child(ren) is/are in care.

- d) A child shall be discharged from the facility only to the child's parent(s) or guardian or to a person designated in writing by the parent(s) or guardian to receive the child.

- e) The caregiver shall refuse to release a child to any person, whether related or unrelated to the child, who has not been authorized, in writing, by the parent(s) or guardian to receive the child. Persons not known to the caregiver shall be required to provide a driver's license (with photo) or photo identification card issued by the Illinois Secretary of State to establish their identity prior to a child's release to them.

- f) The facility shall maintain a list of persons designated, in writing, by the parent(s), or guardian to whom the facility can be expected to discharge the child at least once per week. These persons, in addition to the parent(s) or guardian, shall constitute the primary list of persons to whom the child may be released. In addition, the facility shall maintain a contingency list of persons designated, in writing, by the parent(s) or guardian to whom the child may be released less frequently than once per week. When the child is

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

released to a person on the contingency list, the facility shall maintain a record of the person to whom the child was released, the date and time that the child was released, and the manner that the child left the facility (whether on foot, by passenger car, by taxicab or other means of transportation).

- g) Other discharge provisions of this Section notwithstanding, a child leaving the day care home to attend school shall be released in accordance with the written authorization of the parent(s) or guardian. Such authorization shall include the time that the child is to be released and the means of transportation the child is to use.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 406.14 Health and Medical Care

- a) The caregiver shall conduct a daily, pre-admissions screening to determine if the child has obvious symptoms of illness. If symptoms of illness are present, the caregiver shall determine whether or not to provide care for the child, depending upon the apparent degree of illness, other children present, and facilities available to provide care for the ill child.

- b) Child(ren) with diarrhea and those with a rash combined with fever (oral temperature of 100 degrees Fahrenheit or higher) shall not be admitted to the day care home while these symptoms persist, and shall be removed as soon as possible should these symptoms develop while the child is in care.

- c) A medical report, on forms prescribed by the Department, shall be on file for each child and shall be dated no earlier than 12 months prior to enrollment.

- 1) The medical report shall be valid for two years, except that subsequent examinations for school-age children shall be in accordance with the requirements of Section 27-8.1 of the School Code (~~4111--Rev--Stat--1997--ch--123--Article-27--par--27-8.1~~) [05 ILCS 5/27-8.1] provided copies of the exam are on file at the facility.

- 2) A tuberculin skin test shall be included in the initial exam only. The test shall be administered by the Mantoux method in accordance with the rules of the Illinois Department of Public Health.

- 3) Screening for lead poisoning (for children residing in an area defined as high risk by the Illinois Department of Public Health) or completion of lead risk assessment (for children residing in an area defined as low risk by the Illinois Department of Public Health) ~~lead--screening~~ shall be completed for children age six and below in accordance with the rules of the Illinois Department of Public Health (77 Ill. Adm. Code 665).

- 4) The report shall indicate that the child has been immunized as

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

required by the rules of the Illinois Department of Public Health for immunizations. These required immunizations are poliomyelitis, measles, rubella, diphtheria, mumps, pertussis, tetanus, and haemophilus influenzae B.

5) In accordance with the Child Care Act of 1969, as amended, a parent may request that immunizations, physical examinations, and/or medical treatment be waived on religious grounds. A request for such waiver shall be in writing, signed by the parent, and kept in the child's record.

6) Exceptions made for children who for medical reasons should not be subjected to immunizations or tuberculin tests shall be so indicated by the physician on the child's medical form.

d) A child suspected of having or diagnosed as having a reportable infectious, contagious, or communicable disease for which isolation is required by the Illinois Department of Public Health's General Procedures for the Control of Communicable Diseases (77 Ill. Adm. Code 690.1000) shall be excluded from the home until the Illinois Department of Public Health or local health department authorized by it states, in writing, that the communicable, contagious or infectious stage of the disease has passed and that the child may be re-admitted to the day care home.

e) Necessary medications shall be administered according to specific instructions.

1) Prescription medicine labels must bear the child's name, the physician's name, the name of the drug store or pharmacy, prescription number, date of the prescription, and directions for administering.

2) Non-prescription medication may be administered upon written parental permission which specifies the duration and frequency of medication. Such medication shall be administered in accordance with package instructions, and, except for aspirin and aspirin substitutes, shall be labeled with the child's name and dated.

3) There shall be a signed statement by the child's parent or guardian giving permission to the caregiver to administer medication to the child.

4) The caregiver shall maintain a record of the dates, hours and dosages which are given.

5) Medication shall be returned to the parent(s) when it is no longer required. Additionally, medication provided for a child no longer cared for in the facility and medication which has reached its expiration date shall be destroyed.

6) Medical services, such as direct medical care to the child, shall be administered as required by a physician, subject to the receipt of appropriate releases from parents.

f) In order to reduce the risk of infection or contagion to others, space must be provided in the day care home for the isolation and observation of a child who becomes ill. An ill child shall be provided a bed or cot away from other children and a caregiver or

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

assistant shall supervise the child at all times he/she is in the home.

g) When a day care home admits ill or injured children, a plan for the care of such children must be agreed upon with the parent(s) to assure that the needs of the children for rest, attention, personal care and administration of prescribed medication are met. No child requiring exclusion from the home in accordance with 77 Ill. Adm. Code 690 may be admitted.

h) Personal hygiene standards, such as the following, shall be observed:

- 1) Each child shall be provided with an individual towel, washcloth, and drinking cup. Single-use, disposable articles are acceptable.

- 2) A separate sleeping arrangement, such as a bed, cot, crib, or playpen with individual bedding shall be provided for each child. A twin size bed may be used, for 2 children under age 4, provided each child shall have individual sheets.

- A) The bed shall be kept in a clean and sanitary condition at all times, and bedding shall be suitable for the season.

- B) Family beds may be used for children if separate linens are used.

- C) Rubber sheets shall be used when necessary.

- 3) The caregiver shall require parents to supply clothing suitable to weather conditions, as well as a complete change of clothing in case of need.

- 4) Caregivers and children shall wash and dry their hands before meals, after toileting, and after contact with respiratory secretions.

- 5) Open cuts, sores or lesions on caregiver(s) or child(ren) shall be covered.

- 6) Caregivers shall wash their hands prior to food preparation and after any physical contact with a child during food preparation. Hands shall be dried using single-use towels.

- 7) Sheets shall be changed when soiled and at least weekly.

- 8) Clothing soiled due to toilet accidents shall be changed immediately.

- i) Caregiver(s) shall take reasonable measures to reduce the spread of communicable disease among children in the facility by observing such procedures as:

- 1) Using only washable toys with diapered child(ren);

- 2) Washing washable toys at least once per day;

- 3) Cleaning facility-provided stuffed toys;

- 4) Washing toys mouthed by one child before they are used by another child; and

- 5) Washing pacifiers and other items placed in the mouth if dropped to the floor or ground.

- j) There shall be an emergency plan for each child in case of accident or sudden illness.

- 1) The caregiver shall have available at all times the name,

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

address, and telephone number where the child's parents or guardian, relative, friend, or physician, and the Department can be reached.

- 2) There shall be a planned source of readily available emergency medical care; a hospital emergency medical room, clinic, or the child's physician.
- 3) When the caregiver accompanies a child to the source of emergency care, an adult who meets the standards prescribed by Section 406.11, must assume supervision of other children in the home.
- 4) In case of illness or accident, the parent, guardian, or supervising agency responsible for the child shall be notified immediately, and the child shall be removed from the home as soon as possible.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 406. APPENDIX C. Background of Abuse, Neglect, or Criminal History which May Prevent Licensure or Employment in a Day Care Home

- A. The Department makes the presumption that an individual who has been determined to be a perpetrator of child abuse or neglect involving the allegations listed below, as defined in Appendix B, Child Abuse and Neglect Allegations of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect is not suitable for work which involves contact with children.

Death
 Brain damage or skull fracture
 Subdural hematoma
 Internal injuries
 Wounds (gunshot, knife, or puncture)
 Torture
 Sexually transmitted diseases
 Sexual penetration
 Sexual molestation
 Sexual exploitation
 Failure to thrive
 Malnutrition
 Medical neglect of disabled infant

A single indicated report of child abuse or neglect which resulted in serious injury to the child, regardless of the allegations involved

More than one indicated report involving any of the following allegations, regardless of severity:

Burns or scalding
 Poison or noxious substances
 Bone fractures
 Cuts, bruises, or welts
 Human bites
 Sprains or dislocations
 Tying or close confinement
 Substance misuse
 Mental injury
 Substantial risk of physical injury
 Inadequate supervision
 Abandonment or desertion
 Medical neglect
 Lock-out
 Inadequate food
 Inadequate shelter
 Inadequate clothing
 Environmental neglect

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

If the licensee(s)/license applicant(s) believes there are unusual circumstances that should be considered to mitigate the presumption of unsuitability, the licensee(s)/license applicant(s) may request a waiver of the presumption of unsuitability. Materials to be considered are to be submitted to the licensing entity.

B. Criminal Convictions Which Prevent Licensure or Employment

If any person subject to background checks has been included in the Statewide Child Sex Offender Database or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 (720 ILCS 5) or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to receiving a license or permit to operate as a child care facility and from obtaining employment or continuing in employment in a licensed child care facility which involves contact with children as part of the duties.

The offenses which serve as a bar to licensure or employment involving contact with children in any child care facilities subject to licensing include:

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

Murder
Solicitation of murder
Solicitation of murder for hire
Intentional homicide of an unborn child
Voluntary manslaughter of an unborn child
Involuntary manslaughter
Reckless homicide
Concealment of a homicidal death
Involuntary manslaughter of an unborn child
Reckless homicide of an unborn child
Drug induced homicide

KIDNAPPING AND RELATED OFFENSES

Kidnapping
Aggravated kidnapping
Aggravated unlawful restraint
Felony unlawful restraint
Forcible detention
Child abduction

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Aiding and abetting child abduction
Harboring a runaway

SEX OFFENSES

Indecent solicitation of a child
Indecent solicitation of an adult
Public indecency
Sexual exploitation of a child
Sexual relations within families
Prostitution
Soliciting for a prostitute
Soliciting for a juvenile prostitute
Solicitation of a sexual act
Pandering
Keeping a place of prostitution
Keeping a place of juvenile prostitution
Patronizing a prostitute
Patronizing a juvenile prostitute
Pimping
Juvenile pimping
Exploitation of a child
Obscenity
Child pornography
Harmful material
Tie-in sales of obscene publications to distributors

BODILY HARM

Heinous battery
Aggravated battery with a firearm
Aggravated battery of a child
Tampering with food, drugs, or cosmetics
Hate crime
Stalking
Aggravated stalking
Threatening public officials
Home invasion
Vehicular invasion
Criminal sexual assault
Aggravated criminal sexual assault
Predatory criminal sexual assault of a child
Criminal sexual abuse
Aggravated sexual abuse
Criminal transmission of HIV
Criminal neglect of an elderly or disabled person
Child abandonment
Endangering the life or health of a child

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Ritual mutilation
Ritualized abuse of a child

DRUG OFFENSES

Possession of more than 30 grams of cannabis
Manufacture of more than 10 grams of cannabis
Cannabis trafficking
Delivery of cannabis on school grounds
Unauthorized production of more than five cannabis sativa plants
Unauthorized manufacture or delivery of controlled substances
Unauthorized manufacture or delivery of controlled substances
Controlled substance trafficking
Manufacture, distribution, advertisement of look-alike
substances

Calculated criminal drug conspiracy
Permitting unlawful use of a building
Delivery of controlled, counterfeit or look-alike substances
to persons under age 18, or at truck stops, rest
stops, safety rest areas, or on school property
Using, engaging, or employing persons under 18 to deliver
controlled, counterfeit, or look-alike substances
Delivery of controlled substances
Sale or delivery of drug paraphernalia
Felony possession, sale or exchange of instruments adapted
for use of controlled substances or cannabis by subcutaneous
injection

(Source: Added at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Foster Family Homes

2) Code Citation: 89 Ill. Adm. Code 402

3) Section Numbers: Proposed Action:
 402.2 Amend
 402.4 Amend
 402.6 Amend
 402.7 Amend
 402.12 Amend
 402.13 Amend
 402. Appendix A Amend

4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: These
amendments change the references to 89 Ill. Adm. Code 380, Background
Check of Foster Family Home Applicants, which is being repealed, to 89
Ill. Adm. Code 385, Background Checks and add definitions pertinent to the
background check process. Certain crimes have also been added to Appendix
A, which contains the list of crimes which prohibit placement in a foster
family home.

6) Will these proposed rules replace an emergency rule currently in effect?
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or
expand a state mandate as defined in Section 3(b) of the State Mandates
Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this
proposed rulemaking: Comments on this proposed rulemaking may be
submitted in writing for a period of 45 days following publication of this
notice. Comments should be submitted to:

Jacqueline Nottingham
 Chief, Office of Rules and Procedures
 Department of Children and Family Services
 406 East Monroe, Station #222
 Springfield, IL 62701-1498
 (217) 524-1983

TTY: (217) 524-3715

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows.

Rockford

April 1, 1996
7:00 p.m. - 9:00 p.m.
Sweden House
4605 East State
Rockford, IL 61108
(815) 398-4130

Chicago

April 2, 1996
7:00 p.m. - 9:00 p.m.
Quality Inn
One South Halsted
Chicago, IL 60661
(312) 829-5000

Springfield

April 4, 1996
7:00 p.m. - 9:00 p.m.
State House
Room 114
Springfield, IL 62706
(217) 782-8223

Collinsville

April 8, 1996
7:00 p.m. - 9:00 p.m.
Quality Inn
475 North Bluff
Collinsville, IL 62234
(618) 344-7171

Chicago

April 30, 1996
2:00 p.m. - 4:00 p.m.
James Thompson Center Auditorium
100 W. Randolph
Chicago, IL 60601
(312) 814-4650

Marion

May 1, 1996
7:00 p.m. - 9:00 p.m.
Marion Holiday Inn
I-57 and Route 13
Marion, IL 62959
(618) 997-2326

Springfield

May 8, 1996
2:00 p.m. - 4:00 p.m.
Howlett Building
1st Floor Auditorium
2nd and Edwards
Springfield, IL 62706
(217) 782-8996

Peoria

May 6, 1996
7:00 p.m. - 9:00 p.m.
Holiday Inn City Center
500 Hamilton Boulevard
Peoria, IL 61602
(309) 674-2500

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis: These rules do not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the most 2 recent agendas because: The need for these amendments was not foreseen at the time of the two most recent regulatory agendas.

The full text of the proposed amendment begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 402
LICENSING STANDARDS FOR FOSTER FAMILY HOMES

March 1, 1987; emergency amendment at 16 Ill. Reg. 11879, effective July 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 267, effective December 21, 1992; emergency amendment at 18 Ill. Reg. 8481, effective May 20, 1994, for a maximum of 150 days; emergency expired on October 17, 1994; amended at 19 Ill. Reg. 1801, effective February 1, 1995; amended at 19 Ill. Reg. 9463, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10743, effective July 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1589, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 3954, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective _____.

Section 402.2 Definitions

"CANTS" means Child Abuse and Neglect Tracking System.

~~"Child" means any person under 18 years of age.~~

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home pursuant to Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Classifiable fingerprints" means fingerprints have been obtained through an electronic or ink printing process which were determined to provide sufficiently clear impressions to identify the individual from whom the prints were obtained.

"Common parentage" means having the same biological or adoptive father, the same biological or adoptive mother, or the same biological or adoptive father and mother.

"Complete application for foster family home license" means a completed written application form; written authorization by the applicant and all adult members of the household to conduct a criminal background investigation; medical evidence in the form of a medical report, on forms prescribed by the Department, that the applicant and all members of the household are free from communicable diseases or physical and mental conditions that affect their ability to provide care for the child or children; the names and addresses of at least 3 persons not related to the applicant who can attest to the applicant's

Section

- 402.1 Purpose
- 402.2 Definitions
- 402.3 Effective Date of Standards (Repealed)
- 402.4 Application for License
- 402.5 Provisions Pertaining to Permits
- 402.6 Provisions Pertaining to the License
- 402.7 General Requirements for the Foster Home
- 402.8 Requirements for Sleeping Arrangements
- 402.9 Nutrition and Meals
- 402.10 Business and Employment of Foster Family
- 402.11 Qualifications of Foster Parents
- 402.12 Background Inquiry
- 402.13 Health of Foster Family
- 402.14 Number and Ages of Children Served
- 402.15 Meeting Basic Needs of Children
- 402.16 Health Care of Children
- 402.17 Religion
- 402.18 Recreation and Leisure Time
- 402.19 Education
- 402.20 Discipline of Children
- 402.21 Emergency Care of Children
- 402.22 Release of Children
- 402.23 Confidentiality of Information
- 402.24 Required Written Consents
- 402.25 Records to be Maintained
- 402.26 Licensing Supervision
- 402.27 Adoptive Homes
- 402.28 Severability of This Part

APPENDIX A Criminal Convictions Which Prevent Licensure

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 9548, effective October 1, 1981; emergency amendment at 6 Ill. Reg. 15580, effective December 15, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 3439, effective April 4, 1983; amended at 7 Ill. Reg. 13858, effective November 1, 1983; amended at 8 Ill. Reg. 23197, effective December 3, 1984; amended at 11 Ill. Reg. 4292, effective

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

moral character; and fingerprints submitted by the applicant and all adult members of the applicant's household. [225 ILCS 10/4]

"Department" means the Department of Children and Family Services.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Foster family home" means a facility for child care in residences of families who receive no more than 8 children unrelated or related to them, unless all the children are of common parentage, or residences of relatives who receive no more than 8 related or unrelated children placed by the Department, unless the children are of common parentage, for the purpose of providing family care and training for the children on a full-time basis, except the Director of Children and Family Services, pursuant to Department regulations, may waive the limit of 8 children unrelated to an adoptive family for good cause to facilitate an adoptive placement. The family's or relative's own children, under 18 years of age, shall be included in determining the maximum number of children served. [225 ILCS 10/2.17]

"Full-time care" means the child is a resident of the household, whether on a temporary, emergency, or permanent basis, and is receiving family care usually provided by a parent or guardian.

"LEADS" means the Law Enforcement Agency Data System.

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed. [Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4]]

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing applicant" means those individuals, agencies, or organizations who apply for a license from the Department of Children and Family Services.

"Licensing representative" means those Department staff or other persons authorized under the Child Care Act to examine facilities for licensure.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Member of the household" means a person who resides in the household of a family home as evidenced by maintained clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation", as used in this Part, means a traffic violation under the laws of the State Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Minor traffic violation" as used in this Part means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which resulted in a fine of \$100 or less without other penalty such as license suspension or revocation, probation, jail sentence, or community service work.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a two month period to allow the individual(s) to become eligible for a license.

"Relative," for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- *is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or*
- *is the spouse of such a relative, or*
- *is the child's step-father, step-mother, or adult step-brother or step-sister.*

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Supervising agency", for the purpose of this Part part, means a licensed child welfare agency, a license-exempt agency, or the Department of Children and Family Services.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 402.4 Application for License

- a) Application for license as a foster family home shall be completed, signed by the foster parent applicant(s), and filed with the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Department of Children and Family Services by the supervising agency on forms prescribed by the Department. Applications submitted to the Department after July 1, 1995 shall be a complete application for a foster family home license, as defined in Section 402.2. Any relative who receives a child or children for placement on a full-time basis may apply for a license to operate a foster family home as defined in Section 2.17 of the Child Care Act of 1969 [225 ILCS 10/2.17].

b) As part of the application, each foster family home applicant and adult member of the household shall authorize criminal background checks in accordance with 89 Ill. Adm. Code 385, Background Checks 89 Ill.-Adm.-Code-389, ~~Background-Check-of-Foster-Family-Home-Applicants~~ and shall submit to fingerprinting to determine if the individual has ever been charged with a crime, and if so, the disposition of the charges.

c) The supervising agency shall study each foster home under its supervision before recommending issuance of a license. The licensing study shall be conducted by a qualified licensing representative and shall be reviewed and approved by the assigned supervisor. Supervisory approval indicates recommendation for license or denial of a license and compliance or non-compliance with the standards. The study shall be in writing and shall be signed by the licensing representative performing the study and by the assigned supervisor. When the application for a license is denied, the supervising agency shall advise the applicant in writing of the reasons for the denial.

d) A new application shall be filed when any of the following occurs:

- 1) when an application for license has been withdrawn, and the licensee or agency seeks to reapply; or
- 2) when there is a change in the name of the licensee, the address of the foster home, the supervising agency, or the area in the home used to children; or
- 3) when there is a change in the status of joint licensees, such as separation, divorce, or death; or
- 4) not sooner than 12 months after when the Department has revoked or refused to renew a license, and a new license is sought.

e) A new application may be submitted at any time, including following the denial of an application for license, except that when a license has been revoked or the Department has refused to renew a license, the licensee may not reapply for licensure as a foster family home for a period of one year after revocation or refusal to renew.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 402.6 Provisions Pertaining to Permits

a) A two month permit may be issued only with the personal written approval of the Director of the Department when:

- 1) The application for license has been completed and signed by the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

foster parent applicant(s) and submitted to the Department;

2) The required background check forms have been completed in accordance with 89 Ill. Adm. Code 385, Background Checks 89-III-Adm.-Code-389, ~~Background-Check-of-Foster-Family-Home-Applicants~~, classifiable fingerprints, as defined in this Part, have been obtained, and a CANTS and LEADS check have been completed which find ~~finds~~ no history of child abuse or neglect or criminal activities for the foster home applicants;

3) A complete licensing study has been conducted by the licensing representative and it has been determined that the family is in reasonable compliance with all applicable standards except for receipt, review, and disposition of the criminal background check required by 89 Ill. Adm. Code 385, Background Checks 89-III-Adm.-Code-389, ~~Background-Check-of-Foster-Family-Home-Applicants~~; furnishing, equipment and space sufficient for the children have been acquired; and

5) the applicants have signed:

- A) affidavits indicating that they have not been convicted or charged with a crime other than a minor traffic violation;
- B) acknowledgments that, by virtue of being a foster parent, they are mandated to report suspected child abuse or neglect;

C) acknowledgements that the permit is time limited and issuance of a license is contingent upon the results of the criminal background check;

D) acknowledgements that the permit may be cancelled and the Department will refuse to issue a license if the results of the criminal background check are unfavorable; and

E) acknowledgements that any children placed in their care will be removed without prior notice if information provided during the application process has been falsified or the applicants have a prior criminal history, other than for a minor traffic violation.

b) A permit shall not be issued retroactively.

c) Permits shall not be transferred to another person or other legal entity. ~~7-Organization-or-supervising-agency-~~

d) Permits shall not be valid for a name or address different from the name and address shown on the issued permit.

e) Permits shall not be renewable.

f) A current permit shall be available in the foster home at all times while the home is operating under a permit.

g) A license shall be issued at any time within the two month period covered by the permit provided that the foster family home achieves and maintains compliance with the Department's licensing standards.

h) The foster family shall adhere to the provisions or restrictions specified on the permit.

i) There shall be no fee or charge for the permit.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 402.7 Provisions Pertaining to the License

- a) A foster family home license is valid for four years unless revoked by the Department or voluntarily given up by the licensee.
- b) The number of children cared for in the foster family home shall not exceed the license capacity and must conform with the requirements for the number and ages of children who may reside in a foster family home.
- c) The foster parents' biological and adopted children under 18 years of age shall be counted when determining license capacity.
- d) The license shall not be transferred to another person or other legal entity.
- e) The license shall not be valid for a name or an address other than the name and address on the license.
- f) A current license shall be available in the foster home at all times.
- g) There shall be no fee or charge for the license.
- h) The foster family shall adhere to the provisions or restrictions specified on the license in accordance with these rules.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 402.12 Qualifications of Foster Family

- a) The licensee(s) shall be either a single person or a man and woman married to each other. Each foster parent shall be willing and able to assume appropriate responsibilities for the child or children received for care.
- b) Foster parents shall be stable, law abiding, responsible, mature individuals, at least 21 years of age.
- c) Foster parents shall have passed the background check required for foster parents and adult members of the household, as required in 89 Ill. Adm. Code 385, Background Checks 09--iii--Adm--Code--3007

Background-Check-of-Foster-Family-Homes-Applicants.

- d) Foster parents shall be able to accept agency supervision.
- e) Foster parents shall adequately supervise children in their care to assure compliance with laws including, but not limited to, criminal laws.
- f) Foster home applicants shall provide the names and addresses of at least three unrelated references who can attest to the applicant's moral character.
- g) Unless parental rights have been terminated, foster parents shall respect and support a child's ties to his or her biological family and shall cooperate with the supervising agency and the service plan for the child and his/her family.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- h) The foster family shall have sufficient financial resources to provide basic necessities for themselves and their own children.
- i) Foster parents shall complete, as a condition of initial licensure, at least six clock hours of training on content approved by the Department.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 402.13 Background Inquiry

- a) As a condition of issuance or renewal of a license by the Department, foster parents shall furnish information of any offenses (other than minor traffic violations) for which they have been charged. The Department shall make a determination concerning their suitability in working with the child in accordance with this Part and 89 Ill. Adm. Code 385, Background Checks 09--iii--Adm--Code--3007-Background-Check-of-Foster-Family-Homes-Applicants.

- b) Persons who have been convicted of an offense shall not be automatically rejected as foster parents unless the offense is one of those listed in Part 402.Appendix A. Otherwise the Department shall consider the following:
 - 1) the type of crime for which the individual was convicted;
 - 2) the number of crimes for which the individual was convicted;
 - 3) the nature of the offense(s);
 - 4) the age of the individual at the time of conviction;
 - 5) the length of time that has elapsed since the last conviction;
 - 6) the relationship of the crime and the capacity to care for children;
 - 7) evidence of rehabilitation; and
 - 8) opinions of community members concerning the individual in question.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 402.APPENDIX A Criminal Convictions Which Prevent Licensure

If the foster parent applicant(s) or any adult member of the household has been convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 [720 ILCS 5], the Cannabis Control Act [720 ILCS 550], and the Illinois Controlled Substances Act [720 ILCS 570], or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to receiving a foster home license or permit.

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

Murder
Solicitation of murder
Solicitation of murder for hire
Intentional homicide of an unborn child
Voluntary manslaughter of an unborn child
Involuntary manslaughter
Reckless homicide
Concealment of a homicidal death
Involuntary manslaughter of an unborn child
Reckless homicide of an unborn child
Drug induced homicide

KIDNAPPING AND RELATED OFFENSES

Kidnapping
Aggravated kidnapping
Unlawful restraint
Aggravated unlawful restraint
Forcible detention
Child abduction
Aiding and abetting child abduction
Harboring a runaway

SEX OFFENSES

Indecent solicitation of a child
Indecent solicitation of an adult
Public indecency
Sexual exploitation of a child
Sexual relations within families
Prostitution
Soliciting for a prostitute
Soliciting for a juvenile prostitute

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Solicitation of a sexual act

Pandering
Keeping a place of prostitution
Keeping a place of juvenile prostitution
Patronizing a prostitute
Patronizing a juvenile prostitute
Pimping
Juvenile pimping
Exploitation of a child
Obscenity
Child pornography
Harmful material
Tie in sales of obscene publication to distributors

BODILY HARM

Felony aggravated assault
Vehicular endangerment
Felony domestic battery
Aggravated battery
Heinous battery
Aggravated battery with a firearm
Aggravated battery of a child
retarded person
Aggravated battery of an unborn child
Tampering with food, drugs, or cosmetics
Aggravated battery of a senior citizen
Drug induced infliction of great bodily harm
Intimidation
Compelling organization membership of persons
Hate crime
Stalking
Aggravated stalking
Threatening public officials
Home invasion
Vehicular invasion
Criminal sexual assault
Aggravated criminal sexual assault
Predatory criminal sexual assault of a child
Criminal sexual abuse
Aggravated sexual abuse
Criminal transmission of HIV
Abuse and gross neglect of a long term care facility resident
Criminal neglect of an elderly or disabled person
Child abandonment
Endangering the life or health of a child
Felony violation of an order of protection
Ritual mutilation

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Ritualized abuse of a child

OFFENSES DIRECTED AGAINST PROPERTY

Felony theft

Robbery

Armed robbery

Aggravated robbery

Vehicular hijacking

Aggravated vehicular hijacking

Burglary

Possession of burglary tools

Residential burglary

Criminal fortification of a residence or building

Arson

Aggravated arson

Possession of explosives or explosive incendiary devices

OFFENSES AFFECTING PUBLIC HEALTH, SAFETY AND DECENCY

Felony unlawful use of weapons

Aggravated discharge of a firearm

Reckless discharge of a firearm

Unlawful use of metal piercing bullets

Unlawful sale or delivery of firearms on the premises of any school

Disarming a police officer

Obstructing justice

Concealing or aiding a fugitive

Armed violence

Felony contributing to the criminal delinquency of a juvenile

DRUG OFFENSES

Possession of more than thirty grams of cannabis

Manufacture of more than 10 grams of cannabis

Cannabis trafficking

Delivery of cannabis on school grounds

Unauthorized production of more than five cannabis sativa plants

Calculated criminal cannabis conspiracy

Unauthorized manufacture or delivery of controlled substances

Controlled substance trafficking

Manufacture, distribution, advertisement of look-alike substances

Calculated criminal drug conspiracy

Permitting unlawful use of a building

Delivery of controlled, counterfeit or look-alike substances to persons under age 18, or at truck stops, rest stops, safety rest areas, or on school property

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Using, engaging, or employing persons under 18 to deliver controlled, counterfeit or look-alike substances

Delivery of controlled substances

Sale or delivery of drug paraphernalia

Felony possession, sale or exchange of instruments adapted for use of controlled substance or cannabis by subcutaneous injection

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Group Day Care Homes

2) Code Citation: 89 Ill. Adm. Code 408

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
408.5	Amend
408.7	Repeal
408.10	Amend
408.20	Amend
408.25	Amend
408.35	Amend
408.40	Amend
408.60	Amend
408.70	Amend
408.Appendix E	New

4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: These proposed amendments require all prospective and current employees of a group day care home and all members of the household age 13 and over from which a group day care home operates to authorize a criminal background check. The amendments also provide criteria for assessing the impact of an indicated report of child abuse/neglect or a criminal history in determining the suitability of a person for employment in a group day care home.

Finally, the time period for which a license is valid is being increased from two years to three years.

6) Will these proposed amendments replace an emergency rule currently in effect? No

7) Do these proposed amendments contain incorporations by reference? No

8) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Department of Children and Family Services
406 East Monroe Street, Station #222
Springfield, IL 62701-1498
(217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows:

Rockford	Chicago
April 1, 1996	April 2, 1996
7:00 p.m. - 9:00 p.m.	7:00 p.m. - 9:00 p.m.
Sweden House	Quality Inn
4605 East State	One South Halsted
Rockford, IL 61108	Chicago, IL 60661
(815) 398-4130	(312) 829-5000
Springfield	Collinsville
April 4, 1996	April 8, 1996
7:00 p.m. - 9:00 p.m.	7:00 p.m. - 9:00 p.m.
State House	Quality Inn
Room 114	475 North Bluff
Springfield, IL 62706	Collinsville, IL 62234
(217) 782-8223	(618) 344-7171
Chicago	Marion
April 30, 1996	May 1, 1996
2:00 p.m. - 4:00 p.m.	7:00 p.m. - 9:00 p.m.
James Thompson Center Auditorium	Marion Holiday Inn
100 W. Randolph	I-57 and Route 13
Chicago, IL 60601	Marion, IL 62959
(312) 814-4650	(618) 997-2326
Springfield	Peoria
May 8, 1996	May 6, 1996
2:00 p.m. - 4:00 p.m.	7:00 p.m. - 9:00 p.m.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Howlett Building
1st Floor Auditorium
2nd and Edwards
Springfield, IL 62706
(217) 782-8996

Holiday Inn City Center
500 Hamilton Boulevard
Peoria, IL 61602
(309) 674-2500

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: Licensed group day care homes
- B) Reporting, bookkeeping, or other procedures required for compliance:
The amendments require group day care homes to have criminal background checks conducted on current and prospective employees and all members of the household age 13 and over.
- C) Types of professional skills necessary for compliance: Group day care home operators will need to exercise good judgement in assessing whether individuals convicted or charged with a crime are suitable for employment in a group day care home.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: Public Act 89-274 had not been signed into law when the last set of regulatory agendas were due.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 408

LICENSING STANDARDS FOR GROUP DAY CARE HOMES

Section	Purpose
408.1	Definitions
408.5	Effective Date of Standards (Repealed)
408.7	Application For License
408.10	Application for Renewal of License
408.15	Provisions Pertaining to the License
408.20	Provisions Pertaining to Permits
408.25	General Requirements for Group Day Care Homes
408.30	General Requirements for Group Day Care Home Family
408.35	Background Checks
408.40	Caregiver(s)
408.45	Child Care Assistant(s)
408.50	Substitute(s)
408.55	Admission and Discharge Procedures
408.60	Number and Ages of Children Served
408.65	Health and Medical Care
408.70	Discipline of Children
408.75	Nutrition and Meals
408.80	Program
408.85	Transportation of Children
408.90	Swimming
408.95	Children with Special Needs
408.100	Children Under 30 Months of Age
408.105	School Age Children
408.110	Night Care
408.115	Records and Reports
408.120	Confidentiality of Records and Information
408.125	Cooperation with the Department
408.130	Severability of This Part
408.135	Meal Pattern Chart for Children 0 to 12 Months of Age
APPENDIX A	Meal Pattern Chart for Children Over One Year of Age
APPENDIX B	Minimum Equipment and Supplies - Preschool Programs
APPENDIX C	Minimum Equipment and Supplies - Infant and Toddler Programs
APPENDIX D	Background of Abuse, Neglect, or Criminal History Which May
APPENDIX E	Prevent Licensure or Employment in a Group Day Care Home

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], and Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2].

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 13 Ill. Reg. 14828, effective October 1, 1989; emergency amendment at 15 Ill. Reg. 15104, effective October 8, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8950, effective May 30, 1992; amended at 18 Ill. Reg. 5540, effective April 1, 1994; amended at 19 Ill. Reg. 2784, effective February 23, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 408.5 Definitions

"Accredited" means accredited by the North Central Association of Schools and Colleges, its regional counterparts, or the National Accreditation Council.

"Adult," as used in this Part, means a person eighteen (18) years of age or older.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. [Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2]]-

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the group day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database; and
- a check of child support records to determine whether each

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

licensee or license applicant is delinquent in paying an order of child support.

"Caregiver" means the individual directly responsible for child care.

"Child-care facility" means any person, group of persons, agency, association or organization which arranges for care or cares for children unrelated to the operator of the facility, apart from the parents in any facility as defined in the Child-Care Act of 1969. Child-care facilities may be established for-profit or not-for-profit. "Child-care facility" is further defined in Section 2-05 in the Child-Care Act of 1969.

"Children with special needs" means child(ren) exhibit one or more of the following characteristics which is confirmed by clinical evaluation:

"Visual impairment": the child's visual impairment is such that development to his or her potential without special services cannot be achieved.

"Hearing impairment": the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited which prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.

"Physical or health impairment": the child exhibits a physical or health impairment which requires adaptation of the physical plant.

"Speech and/or language impairment": the child exhibits deviations of speech and/or language processes which are outside the range of acceptable variation within a given environment and which prevent full social development.

"Learning disability": the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.

"Behavioral disability": the child exhibits an effective disability and/or maladaptive behavior which significantly interferes with learning and/or social functioning.

"Mental impairment": the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Conditional employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren)) who has applied for and been conditionally selected to perform child care, administrative, professional, or support functions which involve contact with children as part of the job duties in the present or prospective employment and who has commenced such duties while awaiting the results of the background check required by this Part.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Department" means the Illinois Department of Children and Family Services. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Discipline" means the process of helping child(ren) to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Grade level" means not more than four feet above or four feet below ground level.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any other surface which is not above or below the ground.

"Group day care home" means a family home which receives more than 3 up to 16 children for less than 24 hours per day. The number counted includes the family's natural, foster, or adopted children and all other persons under the age of 12. (Section 2.20 of the Child Care Act of 1969 [225 ILCS 10/2.20])

"Guardian" means the guardian of the person of a minor.

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Child Abuse and Neglect Tracking System (CANTS) and the Law Enforcement Agency Data System (LEADS).

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed.

"License study," as used in this Part, means the review of an application for license, on-site visit(s), interviews, and the collection and review of supporting documents to determine compliance with The Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the maximum number of day care children under age 12 permitted in the group day care home at any one time. Children age 12 and over on the premises are not considered in determining license capacity.

"Licensing representative" for the purposes of this Part, means those Department staff or other persons authorized under Section 5 of The Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in the household of a family home as evidenced by maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation", as used in this Part, means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Parent(s)," as used in this Part, means those person(s) assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit," as used in this Part, means a one-time only document issued by the Department of Children and Family Services for a six-month period to allow the individual(s) to become eligible for a license.

"Persons subject to background checks" means the operator(s) of the child care facility, and all current, conditional and prospective employees of the child care facility, as defined in this Section. If the child care facility operates in a family home, the license applicant(s) and all members of the household are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Premises" means the location of the group day care home wherein the family resides and includes the attached yard, garage, and any other outbuildings.

"Program" means all activities provided for the child(ren) during their hours of attendance in the home.

"Protected exit from a basement" means an exit which is separated from the remainder of the group day care home by barriers (such as walls, floors, or doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

~~"Related" means any of the following relationships--by blood, marriage, or adoption--parent, grandparent, great-grandparent, great-uncle, great-aunt, brother, sister, stepbrother, stepbrother, stepfather, uncle, aunt, nephew, niece or first cousin.~~

"Resource personnel" means physicians, nurses, psychologists, social workers, speech therapists, physical and occupational therapists, educators and other technical and professional persons whose expertise is utilized in providing specialized services to child(ren) with special needs.

"School age" means child(ren) six to twelve years of age and five year olds who are in full-day kindergarten.

"Special use areas" means areas of the home which may not be included in the measurement of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Swimming pool," for purposes of this Part, means any natural or artificial basin of water intended for public swimming or recreational bathing which exceeds two feet six inches (2'6") in depth. The term includes bathing beaches and pools at private residences when used for children enrolled in a child care facility.

"Wading pool," for purposes of this Part, means any natural or artificial basin of water less than two feet six inches (2'6") in depth which is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than two feet six inches in depth in swimming pools which are designated primarily for children.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 408.7 Effective Date of Standards (Repealed)

~~The standards prescribed in this Part shall become effective upon the date they are officially adopted and published and shall apply immediately to all group day care homes which are not currently licensed. Group day care homes licensed at the time these rules are officially adopted and published shall have 6 months from the date to comply with the new or revised standards.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 408.10 Application For License

a) Application for license as a group day care home shall be completed, signed by the group day care home applicant(s), and filed with the Department of Children and Family Services on forms prescribed and provided by the Department.

b) Applicant(s) shall provide the supervising agency Department:

- 1) the names, addresses and telephone numbers of at least three (3) adults not related to them who can attest to their character and suitability to provide child care;
- 2) a list of prospective or current employees who will be working in the group day care home, including any substitutes and assistants, and members of the household age 13 and over; and
- 3) complete, signed authorizations to conduct the background check for each prospective or current employee and each member of the household age 13 and over.

c) The license shall be issued when the standards prescribed by this Part have been met. Upon receipt of an application for a license, the supervising agency Department shall conduct a license study in order to determine that the group day care home meets licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The applicant shall receive a copy of the license study on written request and payment of copying costs.

- d) A new application shall be filed when any of the following occurs:
- 1) When an application for a license has been withdrawn, and the applicant or licensee seeks to reapply; or
 - 2) When there is a change in the name of the licensee or the address of the group day care home; or
 - 3) When there is a change in the status of joint licensees, such as separation, divorce or death; or
 - 4) Not sooner than 12 months after when the Department has revoked or refused to renew a license and a new license is sought.
- e) Approval of the supervising agency Department is required to effect changes in the license capacity, the area of the home used for child care, or the ages of children served in conformance with the requirements of Section 408.65.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 408.20 Provisions Pertaining to the License

- a) The licensee(s) shall be a primary caregiver or caregivers who meet the requirements of this Part. ~~Further, the licensee(s) shall be either an individual or a man and woman married to each other.~~
- b) A group day care home license is valid for three 2 years unless revoked by the Department or voluntarily surrendered by the licensee.
- c) The number of children under age 12 cared for in the group day care home at any one time shall not exceed the license capacity. However, the caregiver may accept one additional school-age child in accordance with Section 408.65(f), as long as the total number of children in the home under age 12 does not exceed 16 children.
- d) The age limits specified on the license shall be observed, unless the licensee has submitted a transition plan to the Department in accordance with Section 408.65(g) in order to keep members of a sibling group together and the Department has approved the plan.
- e) Child care may be provided only in those areas specified on the license.
- f) The license is valid only for the family residence of the licensee and shall not be transferred to another person or other legal entity.
- g) The license shall not be valid for a name or an address other than the name and address on the license.
- h) The license shall be prominently displayed in the home at all times.
- i) There shall be no fee or charge for the license.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 408.25 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
 - 1) The application for license has been completed and signed by the applicant(s) and submitted to the Department;
 - 2) The background checks required by Section 408.40 have been completed and the results of the background check have been received for the operator of the group day care home;
 - 3) Character references have been requested regarding the primary caregiver(s), and at least two favorable references have been received;
 - 4) A personal visit to the home by a licensing representative has been completed. The purpose of this visit is to determine compliance with all the licensing requirements except the requirements for remaining character reference(s) and well water tests compliance which may be complied with within the six month period covered by the permit. However, when well water tests are

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- required, applicants must agree to boil all drinking and cooking water and to provide only bottled water for infants until the test results are received;
- 5) Proof of public liability insurance as required by Section 408.35(h) (such proof may consist of, but is not limited to, a copy of an insurance policy, binder or certificate; or a letter from the insurance carrier);
 - 6) Plan developed for emergency medical care as required by Section 408.70;
 - 7) Furnishings and equipment have been acquired for the number of children to be served during the six month permit period in accordance with Appendix C and D;
 - 8) Medical reports and character references are on file at the home for employed staff; and
 - 9) A written plan has been submitted to the licensing representative which indicates that requirements for a license shall be met within the six month permit period.
- b) A permit shall not be issued retroactively.
 - c) A permit shall not be transferred to another person or other legal entity organization.
 - d) A permit shall not be valid for a name or address different from the name and address shown on the issued permit.
 - e) A permit shall not be renewable.
 - f) A current permit shall be available in the group day care home at all times while the home is operating under a permit that--the--permit--is valid.
 - g) A license shall be issued at any time within the six month period covered by the permit provided that the group day care home achieves and maintains compliance with the Department's licensing standards.
 - h) The group day care home shall adhere to the provisions or restrictions specified on the permit.
 - i) ~~the group-day-care-home shall not begin operations until issuance of a permit--has--been--recommended--in--writing--by--the--licensing representative--and--supervisor--~~
 - 1) There shall be no fee or charge for the permit.
- (Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 408.35 General Requirements for Group Day Care Home Family

- a) Each person subject to background checks, as defined in Section 408.5, shall authorize the background check required by 89 Ill. Adm. Code 385, Background Checks and be cleared in accordance with the requirements of Part 385 caregiver-child-care-assistant-and-adult member-of-the-household-in-a-group-day-care-home-shall-authorize--the Department-to-conduct-a-background-check-pursuant-to-Section-408-40.
- b) When notified by the Department that an employee, member of the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
NOTICE OF PROPOSED AMENDMENTS

d+ criminal-conviction-or-civil-judgment--
An-individual-requesting-an-opportunity-for-review-pursuant-to
subsection-(c)-above-shall-submit-such-request-in-writing-to-the
Department-of-the-child-care-facility-as-applicable-within-ten-(10)
days-of-receipt-of-written-notice-of-the-Department's-or-child-care
facility's-intent-to-deny-a-license-or-the-Department's-or-child-care
facility's-intent-to-deny-a-license-or-the-Department's-or-child-care
facility's-intent-to-deny-employment--The-individual-shall-be
notified-in-writing-of-the-date-time-and-location-of-the-review.
The-individual-may-be-represented-by-counsel-of-his-or-her-choice-and
may-present-evidence-and/or-witness(es)-on-his-or-her-behalf--The
individual-shall-be-required-to-produce-evidence-that-he-or-she-is-not
the-individual-identified-in-the-court-finding-criminal-conviction-or
civil-judgment--the-Department-has-retired-upon-in-making--the
identification.
Evidence-to-be-considered-shall-be-limited-to:
1) Fingerprints-processed-through-the-U-S-Justice-Department-and
the-Illinois-Department-of-State-Police-indicating-an-absence-of
a-conviction-arising-from-child-abuse-or-neglect-identified-in
subsection-(a)-above-or
2) Sworn-statements-from-the-law-enforcement-agency-or-clerk-of-the
court-upon-whom-the-Department-has-relied-for-the-identification
that-the-subject-of-the-report-provided-to-the-Department-is-not
the-individual-seeking-licensure-or-employment.
e) Except-as-provided-in-subsection-(a)-above-a-person-determined-to-be
the-perpetrator-of-an-indicated-incident-of-abuse-or-neglect-under
Section-3-of-the-Abused-and-Neglected-Child-Reporting-Act-shall-not
automatically-be-dented-a-license-from-the-Department-or-be-dented
employment-in-a-group-day-care-home-licensed-by-the-Department.
Rather-the-individual-shall-be-given-an-opportunity-to-present
evidence-which-demonstrates-fitness-for-licensure-or-employment--Such
evidence-shall-include-but-not-be-limited-to:
1) the-nature-of-the-abuse-or-neglect-with-which-the-individual-was
identified--including-whether-the-abuse-or-neglect-resulted-in
serious-injury-or-death-to-a-child-or-children
2) the-circumstances-surrounding-the-commission-of-the-abuse-or
neglect-including-the-age-of-the-perpetrator-and-the-child--and
that-would-demonstrate-an-unlikelihood-of-repetition
3) the-period-of-time-that-has-elapsed-since-the-abuse-or-neglect
occurred-and-whether-prior-incidents-of-child-abuse-or-child
neglect-have-been-indicated-against-the-individual
4) whether-the-abuse-or-neglect-involved-a-single-or-multiple-child
victims
5) the-relationship-of-the-incident-of-child-abuse-or-neglect-to-the
individual's-current-or-prospective-responsibilities-within-the
group-day-care-home
6) evidence-of-rehabilitation-such-as-employment-education
participation-in-therapy-since-the-indicated-incidents-of-abuse

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
NOTICE OF PROPOSED AMENDMENTS

currently more than 30 days delinquent in complying with an order for
child support or, upon completion of the background check, the
licensee(s) or license applicant(s) are found to be delinquent despite
their certification, the Department shall deny the application for
license, refuse to renew the license, or revoke the license unless the
licensee(s) or license applicant(s) arrange for payment of past due
and current child support and pay child support in accordance with
that agreement.
a) No-individual-may-receive-a-license-from-the-Department-when-the
applicant-an-adult-member-of-the-household-or-any-individual-who
comes-in-regular-and-frequent-contact-with-the-children-cared-for-in-a
day-care-home-or-any-employee-of-the-day-care-home-has-been
determined-to-be-a-perpetrator-of-child-abuse-or-neglect-under-Section
3-of-the-Abused-and-Neglected-Child-Reporting-Act-(325-1685-5/3)-and
who-has-been-identified-through-circuit-court-(juvenile)-criminal
civil-proceedings-as-having-been-a-perpetrator-of-child-abuse-or
neglect-based-on-any-one-of-the-following:
1) Death
2) Brain-damage-or-skull-fracture
3) Subdural-injuries
4) Internal-injuries
5) Wounds-(Gunshot)-knife-or-puncture)
6) Torture
7) Sexually-transmitted-diseases
8) Sexual-penetration
9) Sexual-molestation
10) Sexual-exploitation
11) Failure-to-thrive
12) Malnutrition
13) Medical-neglect-of-disabled-infant
b) For-the-purposes-of-Section-400-40(a)-identification-through-circuit
court-proceedings-includes:
1) specific-findings-by-a-court-that-a-certification-abuse-neglect
or-dependency-is-the-result-of-abuse-or-neglect-inflicted-by-a
parent-guardian-or-legat-custodian-or-other-person-responsible
for-the-certification-welfare-as-defined-by-Section-4-of-the
Abused-and-Neglected-Child-Reporting-Act-(325-1685-5/4)-
2) criminal-convictions-and-civil-judgments-regardless-of-the-type
of-sentence-imposed-or-amount-of-damages-recovered-for-offenses
relating-to-child-abuse-child-neglect-or-child-sexual-abuse
resulting-from-jury-trials-bench-(court)-trials-or-voluntary
guilty-pleas
c) Prior-to-denying-an-individual-a-license-or-employment-pursuant-to
subsection-(a)-the-Department-shall-notify-by-certified-mail-the
individual-that-he-or-she-has-been-identified-as-a-perpetrator-of
child-abuse-or-neglect-as-described-in-subsection-(a)-above-and-the
Department-shall-provide-the-individual-an-opportunity-to-demonstrate
that-he-or-she-is-not-the-individual-identified-in-the-court-finding

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

- or neglect, and
- 7) character references
- f) Except as stated in subsection (a) above and Section 4-2 of the Child Care Act of 1969 (235 ILCS 10/4-2), an individual convicted of a crime will not automatically be prohibited from contact with child(ren) cared for in a group day care home solely because of the conviction. Instead, the individual shall be given an opportunity to present evidence which demonstrates fitness for contact with children receiving day care. Such evidence shall include, but is not limited to:
- 1) the type of crime for which the individual was convicted;
- 2) the number of crimes for which the individual was convicted;
- 3) the nature of the offense(s);
- 4) the age of the individual at the time of conviction;
- 5) the length of time that has elapsed since the last conviction;
- 6) the relationship of the crime and the capacity to care for children;
- 7) evidence of rehabilitation; and
- 8) character references.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 408.60 Admission and Discharge Procedures

- a) Child(ren) served in a day care facility shall not remain on the premises for more than 12 hours in any 24-hour period unless the parent's employment schedule requires more than 12 hours of day care. At no time shall child(ren) cared for in a day care facility remain on the premises for 24 consecutive hours.
- b) Prior to acceptance of a child for care, the caregiver shall require that the parent(s) or guardian accompany the child to the home to become acquainted with the caregiver and with the service to be provided. No child under six years of age may be admitted to the group day care home unless the health examination, complete with lead risk assessment if the child resides in an area defined as low risk by the Illinois Department of Public Health, or a screening for lead poisoning if the child resides in an area defined as high risk by the Illinois Department of Public Health, complete with lead screening, has been completed as required by Department of Public Health rules at 77 Ill. Adm. Code 665, Child Health Examination.
- c) The parent(s) or guardian shall be permitted to visit the home, without prior notice, during the hours their child(ren) is/are in care.
- d) The caregiver(s) shall conduct a daily, preadmissions screening to determine if the child has obvious symptoms of illness. If symptoms of illness are present, the caregiver shall determine whether or not to provide care for the child, depending upon the apparent degree of

- illness, other children present, and facilities available to provide care for the ill child in accordance with the requirements of Section 408.70.
- e) Child(ren) with diarrhea and those with rash combined with fever (oral temperature of 100 degrees Fahrenheit or higher) shall not be admitted to the group day care home while these symptoms persist, and shall be removed as soon as possible should these symptoms develop while the child is in care.
- f) A child shall be discharged from the facility only to the child's parent(s) or guardian or to a person designated in writing by the parent(s) or guardian to receive the child.
- g) The caregiver shall refuse to release a child to any person, whether related or unrelated to the child, who has not been authorized, in writing, by the parent(s) or guardian to receive the child. Persons not known to the caregiver shall be required to provide a driver's license (with photo) or photo identification card issued by the Illinois Secretary of State to establish their identity prior to a child's release to them.
- h) The facility shall maintain a list of persons designated, in writing, by the parent(s), or guardian to whom the facility can be expected to discharge the child at least once per week. These persons, in addition to the parent(s) or guardian, shall constitute the primary list of persons to whom the child may be released. In addition, the facility shall maintain a contingency list of persons designated, in writing, by the parent(s) or guardian to whom the child may be released less frequently than once per week. When the child is released to a person on the contingency list, the facility shall maintain a record of the person to whom the child was released, the date and time that the child was released, and the manner that the child left the facility (whether on foot, by passenger car, by taxicab or other means of transportation).
- i) Other discharge provisions of this Section notwithstanding, a child leaving the group day care home to attend school shall be released in accordance with the written authorization of the parent(s) or guardian. Such authorization shall include the time that the child is to be released and the means of transportation the child is to use.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 408.70 Health and Medical Care

- a) A medical report, on forms prescribed by the Department, shall be on file for each child and shall be dated no earlier than 6 months prior to enrollment.
- 1) The medical report shall be valid for two years, except that subsequent examinations for school-age children shall be in accordance with the requirements of Section 27-8.1 of the School

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
NOTICE OF PROPOSED AMENDMENTS

Code [105 ILCS 5/27-8.1] (11-1-Rev--Stat--1991--ch--1327--par--27-8-1), provided copies of the exam are on file at the facility.
2) A tuberculin skin test shall be included in the initial exam only. The test shall be administered by the Mantoux method in accordance with the rules of the Illinois Department of Public Health.

3) Screening for lead poisoning (for children residing in an area defined as high risk by the Illinois Department of Public Health) or completion of lead risk assessment (for children residing in an area defined as low risk by the Illinois Department of Public Health) lead screening shall be completed for children age six and below in accordance with the rules of the Illinois Department of Public Health (77 Ill. Adm. Code 665).

4) The report shall indicate that the child has been immunized as required by the rules of the Illinois Department of Public Health for immunizations. These required immunizations are poliomyelitis, measles, rubella, diphtheria, mumps, pertussis, tetanus and haemophilus influenza B.

5) In accordance with the Child Care Act of 1969, as amended, a parent may request that immunizations, physical examinations, and/or medical treatment be waived on religious grounds. A request for such waiver shall be in writing, signed by the parent, and kept in the child's record.

6) Exceptions made for children who for medical reasons should not be subjected to immunizations or tuberculin test shall be so indicated by the physician on the child's medical form.

b) A child suspected of having or diagnosed as having a reportable infectious, contagious, or communicable disease for which isolation is required by the Illinois Department of Public Health's General Procedures for the Control of Communicable Disease (77 Ill. Adm. Code 690.1000) shall be excluded from the home until the Illinois Department of Public Health or local health department authorized by it states, in writing, that the communicable, contagious or infectious stage of the disease has passed and that the child may be re-admitted to the group day care home.

c) Necessary medications shall be administered according to specific instructions.

1) Prescription medicine labels must bear the child's name, the physician's name, the name of the drug store or pharmacy, prescription number, date of the prescription, and directions for administering.

2) Nonprescription medication provided by the parent(s) may be administered upon written parental permission which specifies the duration and frequency of medication. Such medication shall be administered in accordance with package instructions, and shall be labeled with the child's name and dated.

3) There shall be a signed statement by the child's parent or guardian giving permission to the caregiver to administer

medication to the child.

4) The caregiver shall maintain a record of the dates, hours and dosages which are given.

5) Medication shall be returned to the parent(s) when it is no longer required. Additionally, medication provided for a child no longer cared for in the facility and medication which has reached its expiration date shall be destroyed.

6) Medical services, such as direct medical care to the child, shall be administered as required by a physician, subject to the receipt of appropriate releases from parent(s).

d) Personal hygiene standards, such as the following, shall be observed:

1) Each child shall be provided with an individual towel, washcloth, and drinking cup. Single-use, disposable articles are acceptable.

2) A separate sleeping arrangement, such as a bed, cot, crib, or playpen with individual bedding shall be provided for each child. A twin size bed may be used, for 2 children under age 4, provided each child shall have individual sheets.

A) The bed shall be kept in a clean and sanitary condition at all times, and bedding shall be suitable for the season.

B) Family beds may be used for child(ren) if separate linens are used.

C) Rubber sheets shall be used when necessary.

3) The caregiver shall require parent(s) to supply clothing suitable to weather conditions, as well as a complete change of clothing in case of need.

4) Caregiver(s) and child(ren) shall wash and dry their hands before meals, after toileting, and after contact with respiratory secretions.

5) Open cuts, sores or lesions on caregiver(s) or child(ren) shall be covered.

6) Caregiver(s) shall wash their hands prior to food preparation and after any physical contact with a child during food preparation. Hands shall be dried using single-use towels.

7) Sheets shall be changed when soiled and at least weekly.

8) Clothing soiled due to toilet accidents shall be changed immediately.

e) In order to reduce the risk of infection or contagion to others, there must be space provided in the group day care home for the isolation and observation of a child who becomes ill. An ill child shall be provided a bed or cot away from other children and a caregiver or assistant shall supervise the child at all times he/she is in the home.

f) When a group day care home admits an ill or injured child(ren), a plan for the care of such child(ren) must be agreed upon with the parent(s) to assure that the needs of the child(ren) for rest, attention, personal care and administration of prescribed medication are met. No

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

child requiring exclusion from the home in accordance with 77 Ill. Adm. Code 690 may be admitted.

g) Caregiver(s) shall take reasonable measures to reduce the spread of communicable disease among children in the facility by observing such procedures as:

- 1) Using only washable toys with diapered child(ren);
- 2) Washing washable toys at least once per day;
- 3) Cleaning facility-provided stuffed toys;
- 4) Washing toys mouthed by one child before they are used by another child; and
- 5) Washing pacifiers and other items placed in the mouth if dropped to the floor or ground.

h) There shall be an emergency plan for each child in case of accident or sudden illness.

- 1) The caregiver shall have available at all time the name, address, and telephone number where the child's parents or guardian, relative, friend, or physician, and the Department can be reached.
- 2) There shall be a planned source of readily available emergency medical care; a hospital emergency medical room, clinic, or the child's physician.
- 3) When the caregiver accompanies a child to the source of emergency care, an adult must assume supervision of other child(ren) in the home.
- 4) In case of illness or accident, the parent, guardian, or supervising agency responsible for the child shall be notified immediately.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

408.APPENDIX E Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Group Day Care Home

A. The Department makes the presumption that an individual who has been determined to be a perpetrator of child abuse or neglect involving the allegations listed below, as defined in Appendix B, Child Abuse and Neglect Allegations of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect is not suitable for work which involves contact with children.

Death
Brain damage or skull fracture
Subdural hematoma
Internal injuries
Wounds (gunshot, knife, or puncture)
Torture
Sexually transmitted diseases
Sexual penetration

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Sexual molestation

Sexual exploitation

Failure to thrive

Malnutrition

Medical neglect of disabled infant

A single indicated report of child abuse or neglect which resulted in serious injury to the child, regardless of the allegations involved

More than one indicated report involving any of the following allegations, regardless of severity:

Burns or scalding

Poison or noxious substances

Bone fractures

Cuts, bruises, or welts

Human bites

Sprains or dislocations

Tying or close confinement

Substance misuse

Mental injury

Substantial risk of physical injury

Inadequate supervision

Abandonment or desertion

Medical neglect

Lock-out

Inadequate food

Inadequate shelter

Inadequate clothing

Environmental neglect

If the licensee(s)/license applicant(s) believes there are unusual circumstances that should be considered which mitigate the presumption of unsuitability, the licensee(s)/license applicant(s) may request a waiver of the presumption of unsuitability. Materials to be considered are to be submitted to the licensing entity.

Criminal Convictions Which Prevent Licensure or Employment

If any person subject to background checks has been included in the Statewide Child Sex Offender Database or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 (720 ILCS 5) or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to receiving a license or permit to operate as a child care facility and from obtaining employment or continuing in employment in a licensed child care facility which involves contact with children as part of the duties.

The offenses which serve as a bar to licensure or employment involving contact with children in any child care facilities subject to licensing include:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

Murder
Solicitation of murder
Solicitation of murder for hire
Intentional homicide of an unborn child
Voluntary manslaughter of an unborn child
Involuntary manslaughter
Reckless homicide
Concealment of a homicidal death
Involuntary manslaughter of an unborn child
Reckless homicide of an unborn child
Drug induced homicide

KIDNAPPING AND RELATED OFFENSES

Kidnapping
Aggravated kidnapping
Aggravated unlawful restraint
Felony unlawful restraint
Forcible detention
Child abduction
Aiding and abetting child abduction
Harboring a runaway

SEX OFFENSES

Indecent solicitation of a child
Indecent solicitation of an adult
Public indecency
Sexual exploitation of a child
Sexual relations within families
Prostitution
Soliciting for a prostitute
Soliciting for a juvenile prostitute
Solicitation of a sexual act
Pandering
Keeping a place of prostitution
Keeping a place of juvenile prostitution
Patronizing a prostitute
Patronizing a juvenile prostitute
Pimping
Juvenile pimping
Exploitation of a child
Obscenity
Child pornography

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Harmful material
Tie-in sales of obscene publications to distributors

BODILY HARM

Reinious battery
Aggravated battery with a firearm
Aggravated battery of a child
Tampering with food, drugs, or cosmetics
Hate crime
Stalking
Aggravated stalking
Threatening public officials
Home invasion
Vehicular invasion
Criminal sexual assault
Aggravated criminal sexual assault
Predatory criminal sexual assault of a child
Criminal sexual abuse
Aggravated sexual abuse
Criminal transmission of HIV
Criminal neglect of an elderly or disabled person
Child abandonment
Endangering the life or health of a child
Ritual mutilation
Ritualized abuse of a child

DRUG OFFENSES

Possession of more than 30 grams of cannabis
Manufacture of more than 10 grams of cannabis
Cannabis trafficking
Delivery of cannabis on school grounds
Unauthorized production of more than five cannabis sativa plants
Calculated criminal cannabis conspiracy
Unauthorized manufacture or delivery of controlled substances
Controlled substance trafficking
Manufacture, distribution, advertisement of look-alike substances
Calculated criminal drug conspiracy
Permitting unlawful use of a building
Delivery of controlled, counterfeit or look-alike substances to persons under age 18, or at truck stops, rest stops, safety rest areas, or on school property
Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances
Delivery of controlled substances

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Sale or delivery of drug paraphernalia
Felony possession, sale or exchange of instruments adapted
for use of controlled substances or cannabis by
subcutaneous injection

(Source: Added at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Group Homes

2) Code Citation: 89 Ill. Adm. Code 403

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
403.2	Amend
403.3	Repeal
403.4	Amend
403.6	Amend
403.7	Amend
403.15	Amend
403.18	Amend

4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: The amendments require all prospective and current employees of group homes to submit to fingerprinting and that a list of all employees subject to background checks and their authorizations to conduct the background check be attached to the application for a license. In addition, the references to 89 Ill. Adm. Code 358, Background Inquiry for Purchase of Service Providers, have been deleted and replaced by 89 Ill. Adm. Code 385, Background Checks. The amendments also raise the time period for which a license is valid from two years to four years. Finally, the minimum age requirement for child care staff is being lowered to 18 years of age, provided an on-site supervisor is present.

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1st Floor Auditorium 500 Hamilton Boulevard
2nd and Edwards Peoria, IL 61602
Springfield, IL 62706 (309) 674-2500
(217) 782-8996

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: For profit group homes.
- B) Reporting, bookkeeping or other procedures required for compliance:
The amendments require child care facilities to have fingerprint checks done on current and prospective employees and to attach to the application for licensure a list of all employees subject to background checks and their authorizations to conduct the checks. Facilities will also be required to conduct reviews, upon written requests, of their decisions to deny employment based upon the results of all background checks.

- C) Types of professional skills necessary for compliance? Employers will need to exercise professional judgement in assessing whether individuals convicted or charged with a crime can be employed to provide services which require contact with children.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two (2) most recent regulatory agendas because: This rulemaking was not foreseen at the time of the two most recent regulatory agendas.

The full text of the proposed amendment begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station # 222
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. Public hearings have been scheduled on these proposed amendments in the following areas. If persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows.

Rockford Chicago

April 1, 1996 April 2, 1996
7:00 p.m. - 9:00 p.m. 7:00 p.m. - 9:00 p.m.
Sweden House Quality Inn
4605 East State One South Halsted
Rockford, IL 61108 Chicago, IL 60661
(815) 398-4130 (312) 829-5000

Springfield

April 4, 1996 April 8, 1996
7:00 p.m. - 9:00 p.m. 7:00 p.m. - 9:00 p.m.
State House Quality Inn
Room 114 475 North Bluff
Springfield, IL 62706 Collinsville, IL 62234
(217) 782-8223 (618) 344-7171

Chicago

April 30, 1996 May 1, 1996
2:00 p.m. - 4:00 p.m. 7:00 p.m. - 9:00 p.m.
James Thompson Center Auditorium Marion Holiday Inn
100 W. Randolph I-57 and Route 13
Chicago, IL 60601 Marion, IL 62959
(312) 814-4650 (618) 997-2326

Springfield

May 8, 1996 May 6, 1996
2:00 p.m. - 4:00 p.m. 7:00 p.m. - 9:00 p.m.
Howlett Building Holiday Inn City Center

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 403

LICENSING STANDARDS FOR GROUP HOMES

Section

403.1	Purpose
403.2	Definitions
403.3	Effective Date of Standards (Repealed)
403.4	Application for License
403.5	Application for Renewal of License
403.6	Provisions Pertaining to the License
403.7	Provisions Pertaining to Permits
403.8	Child Care Services
403.9	Discipline of Children
403.10	Health and Safety
403.11	Education
403.12	Religion
403.13	Recreation and Leisure Time
403.14	Food and Nutrition
403.15	Background Checks Inquiry
403.16	Professional Services
403.17	Agency Supervision of the Group Home
403.18	Child Care Staff
403.19	Professional Staff
403.20	Support Staff
403.21	Staff Coverage
403.22	Health Requirements for Staff and Volunteers
403.23	Live-in Staff (Repealed)
403.24	Night Duty Staff (Repealed)
403.25	Staff Training
403.26	Physical Facilities
403.27	Required Written Consents
403.28	Records and Reports
403.29	Severability of This Part

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 13147, effective November 30, 1981; amended at 7 Ill. Reg. 3454, effective April 4, 1983; amended at 11 Ill. Reg. 1489, effective January 15, 1987; amended at 11 Ill. Reg. 17523, effective October 15, 1987; amended at 20 Ill. Reg. _____, effective _____.

Section 403.2 Definitions

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database; and
- a check of child support records to determine whether each licensee or license applicant is delinquent in paying an order of child support.

"Child" means any person under 18 years of age:

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child-care facility" means any person--group--of--persons--agency--association--or--organization--which--arranges--for--or--cares--for--children--unrelated--to--the--operator--of--the--facility----apart--from--the--parents--Child-care--facilities--may--be--established--for--profit--or--not--for--profit--"Child-care--facility" is further defined in the Child Care Act:

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. (Section 2.05 of the Child Care Act of 1969 [225 ILCS 10/2.05])

Department" means the Department of Children and Family Services:

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969 [225 ILCS 10/2.02])

"Employee", as used in this Part, means any staff person in a child care facility, and includes any volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren). This definition includes administrative, professional and

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

other support staff.

"Group-home" means a child care facility which provides care for no more than 10 children placed by and under the supervision of a licensed child welfare agency with these homes being owned or rented, staffed, maintained and otherwise operated by the agency. (Section 2.17 of the Child Care Act of 1969 [225 ILCS 10/2.17])

"Group home" means a child care facility which provides care for no more than 10 children placed by and under the supervision of a licensed child welfare agency with these homes being owned or rented, staffed, maintained and otherwise operated by the agency. (Section 2.17 of the Child Care Act of 1969 [225 ILCS 10/2.17])

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Child Abuse and Neglect Tracking System (CANTS) and the Law Enforcement Agency Data System (LEADS).

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed.

"Licensee" means those individuals, agencies or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing applicant" means those individuals, agencies or organizations who are applying for a license from the Department of Children and Family Services.

"Licensing representative", for the purpose of this part, means those Department staff authorized under the Child Care Act to examine facilities for licensure.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a six-month period to allow the individual(s), agency or organization to become eligible for a license.

"Persons subject to background checks" means the operator(s) of the child care facility, and all current, conditional and prospective employees of the child care facility, as defined in this Section. If the child care facility operates in a family home, the license applicant(s) and all members of the household are subject to

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Supervising agency", for the purpose of this part, means a licensed child welfare agency, as defined in the Child Care Act, which supervises the operation of group home(s).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 403.3 Effective Date of Standards (Repealed)

The standards prescribed in this part shall become effective upon the date they are officially adopted and published and shall apply immediately to all facilities which have never been licensed group homes licensed at the time this part is officially adopted and published shall have one calendar year from that date to comply with the new or revised standards.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 403.4 Application for License

a) Only a duly licensed child welfare agency may file an application for a group home license.

b) For the application to be considered complete, the following items shall be attached to the application:

1) staffing plan, including job descriptions and qualifications of staff;

2) program plan; and

3) operating budget; and

4) a list of employees subject to the background check requirements of 89 Ill. Adm. Code 385, Background Checks, and each employee's complete, signed authorization to conduct the background check.

c) A new application shall be filed:

1) when an application for a license has been withdrawn, and the agency seeks to reapply; or

2) when there is a change in:

A) the name of the licensee;

B) the address of the group home;

C) the supervising agency; or

3) not sooner than 12 months after when the Department has revoked or refused to renew a license, and a new license is sought.

d) A new application may be submitted at any time when a license, permit or application has been voluntarily surrendered or withdrawn by the applicant.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 403.6 Provisions Pertaining to the License

- a) A group home license is valid for four years unless revoked by the Department or voluntarily surrendered by the licensee.
- b) The number of children admitted to the group home shall not exceed the license capacity.
- c) Children under 18 years of age whose parents, guardians, custodians, or other person(s) responsible for the care of the child serve as staff members maintaining a residence in the group home shall be included in determining the license capacity if they:
 - 1) live in the same quarters as children accepted for care; or
 - 2) have been admitted for direct care by the group home on the same basis as other children.
- d) If children whose parents, guardians, custodians, or other person(s) responsible for the care of the child serve as staff members, maintain a residence in the group home or have regular access to the children accepted for care, a background check, as required by 89 Ill. Adm. Code 385, Background Checks, shall be conducted on all children age 13 and over.
- e) The following changes in licensing status shall occur only upon prior approval of the Department:
 - 1) the age or characteristics type of children served;
 - 2) the licensed capacity; and
 - 3) the area within the group home used for children.
- f) The license shall not be transferred or transmitted to another person or other legal entity, ~~7-organization-or-sponsor~~.
- g) The license shall not be valid for a name or an address different than the name and address shown on the license.
- h) The license shall be displayed on the premises.
- i) There shall be no fee or charge for the license.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 403.7 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
 - 1) the application for license has been completed and signed by the responsible child welfare agency and submitted to the Department;
 - 2) written clearances concerning compliance with the fire, health, sanitation and safety requirements as specified in state laws and municipal codes are received. If well water is used, a copy of the inspection report and certification of compliance with local or state health department regulations must be on file;
 - 3) a person in charge of the daily operation of the group home has

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

been employed, has passed the background check requirements of 89 Ill. Adm. Code 385, Background Checks, and is prepared to begin work at the facility;

- 4) furnishings, equipment and space sufficient for the number of children to be served have been acquired;
- 5) child care staff sufficient for the number of children to be served have been hired and are prepared to begin work at the facility;
- 6) a plan for the provision of food, clothing, educational and religious opportunities and health care of children has been developed;
- 7) the facility has established procedures and forms to maintain required records including records on the children served;
- 8) a written plan on how the requirements for licensure will be met within the permit period has been developed; and
- 9) a projected annual budget for the group home, approved by the policy-making board of the supervising child welfare agency, has been developed.
- b) A permit shall not be issued retroactively.
- c) The permit shall not be transferred or transmitted to another person or other legal entity ~~7-organization-or-sponsor~~.
- d) The permit shall not be valid for a name or an address different than the name and address shown on the issued permit.
- e) The permit shall not be renewable.
- f) The permit shall be displayed on the premises at all times.
- g) A license shall be issued any time within the six-month period covered by the permit provided the facility achieves and maintains compliance with the Department's licensing standards.
- h) There will be no fee or charge for issuing the permit.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 403.15 Background Checks Inquiry

- a) The governing body of the supervising child welfare agency shall ensure ~~in accordance with the requirements of 89-III-Adm-Code-385 (Background-Checks)~~ that all prospective and current employees submit to fingerprinting (when required), authorize a background check and otherwise meet the requirements of 89 Ill. Adm. Code 385, Background Checks, ~~that-Part~~.
- b) As a condition of issuance or renewal of a license by the Department, the group home shall require ~~all-prospective-and-current-employees, and-at-the-discretion-of-the-governing-body-of-the-supervising-child-welfare-agency-volunteers-and-subcontractor-employees-who-have-direct-contact-with-children~~ persons subject to background checks to furnish written information on any offenses (other than a minor traffic violation) for which they have been convicted in accordance with the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Department's rulemaking 89 Ill. Adm. Code 385.09-iii---Adm---Code--358
(Background-inquiry-for-Purchase-of-Service-Providers).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 403.18 Child Care Staff

a) Child care staff are those persons whose primary responsibility is the daily care of children. Persons employed in other capacities may function as child care staff provided they are qualified as child care staff.

b) Child care staff shall:

- 1) be at least 18 twenty-one years of age, if there is an on-site supervisor. If there is no on-site supervisor, child care staff must be at least 21 years of age;
- 2) have obtained a high school diploma or GED certificate;
- 3) be in good physical and mental health per Section 403.22;
- 4) have demonstrated skills in the field of child care or the capacity to develop such skills;
- 5) have demonstrated ability to work within agency structure and program and to accept agency supervision; and
- 6) have demonstrated ability to work constructively with parents, other agencies and the community.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Youth Emergency Shelters

2) Code Citation: 89 Ill. Adm. Code 410

<u>Section Numbers:</u>	<u>Proposed Action:</u>
410.20	Amend
410.30	Repeal
410.40	Amend
410.60	Amend
410.70	Amend
410.100	Amend
410.140	Amend
410.350	Amend

4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: These amendments require all prospective and current employees and volunteers used to replace or supplement staff to submit to fingerprinting. In addition, references to 89 Ill. Adm. Code 358, Background Inquiry for Purchase of Service Providers, have been deleted and replaced by 89 Ill. Adm. Code 385, Background Checks. The amendments also require that a list of all employees subject to background checks and their authorizations to conduct the background check be attached to the application for a license. Finally, the time period for which a license is valid is being raised from two years to four years.

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

406 East Monroe, Station #222
Springfield, IL 62701-1498
(217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. Public hearings have been scheduled on these proposed amendments in the following areas. Persons are asked to limit their testimony to ten minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows.

Rockford

April 1, 1996
7:00 p.m. - 9:00 p.m.
Sweden House
4605 East State
Rockford, IL 61108
(815) 398-4130

Springfield

April 4, 1996
7:00 p.m. - 9:00 p.m.
State House
Room 114
Springfield, IL 62706
(217) 782-8223

Chicago

April 30, 1996
2:00 p.m. - 4:00 p.m.
James Thompson Center Auditorium
100 W. Randolph
Chicago, IL 60601
(312) 814-4650

Springfield

May 8, 1996
2:00 p.m. - 4:00 p.m.
Howlett Building
1st Floor Auditorium
2nd and Edwards

Chicago

April 2, 1996
7:00 p.m. - 9:00 p.m.
Quality Inn
One South Halsted
Chicago, IL 60661
(312) 829-5000

Collinsville

April 8, 1996
7:00 p.m. - 9:00 p.m.
Quality Inn
475 North Bluff
Collinsville, IL 62234
(618) 344-7171

Marion

May 1, 1996
7:00 p.m. - 9:00 p.m.
Marion Holiday Inn
I-57 and Route 13
Marion, IL 62959
(618) 997-2326

Peoria

May 6, 1996
7:00 p.m. - 9:00 p.m.
Holiday Inn City Center
500 Hamilton Boulevard
Peoria, IL 61602

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Springfield, IL 62706
(217) 782-8996 (309) 674-2500

- 12) Initial Regulatory Flexibility Analysis: These rules do not affect small businesses.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the most recent agendas because: The need for these amendments were not foreseen at the time of the two most recent regulatory agendas.

The full text of the proposed amendment begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 410
 LICENSING STANDARDS FOR YOUTH EMERGENCY SHELTERS

Section	Purpose
410.10	Definitions
410.20	Effective Date of Standards (Repealed)
410.30	Application for License
410.40	Application for Renewal of License
410.50	Provisions Pertaining to the License
410.60	Provisions Pertaining to Permits
410.70	Supervision of the Emergency Shelter
410.80	Finances
410.90	Homeless Youth Staff
410.100	Professional Staff Requirements
410.110	Support Staff
410.120	Volunteers
410.130	Background Checks Inquiry
410.140	Health Requirements for Staff and Volunteers
410.150	Staff Training
410.160	Live-in Staff
410.170	Staff Coverage
410.180	Physical Facilities
410.190	Facility Capacity
410.200	Notification and Consent of Parent or Legal Guardian
410.210	Notification of Crisis Intervention Agency
410.220	Reporting to the Child Abuse Hotline
410.230	Admission Criteria
410.240	Shelter Care Services
410.250	Length of Stay
410.260	Discipline and Control of Residents
410.270	Food and Nutrition
410.280	Transportation of Youth
410.290	Case Management Services
410.300	Medical and Health Services
410.310	Education
410.320	Religion
410.330	Required Written Consents for Minors
410.340	Records and Reports
410.350	Records Retention
410.360	Termination of Shelter Care Services
410.370	Severability of This Part
410.380	

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

10].

SOURCE: Emergency Rules adopted at 14 Ill. Reg. 999, effective January 1, 1990, for a maximum of 150 days; adopted at 14 Ill. Reg. 9407, effective May 31, 1990; amended at 20 Ill. Reg. _____, effective _____.

Section 410.20 Definitions

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Database; and
- a check of child support records to determine whether each licensee or license applicant is delinquent in paying an order of child support.

"Case management services" means services that include the assessment and identification of client needs, the identification of available resources to meet client needs, the development of an individualized service plan, the coordination, monitoring and evaluation of services for each client, and advocacy for a client to assure that services and resources are accessible and provided.

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child-care facility" means any person, group of persons, agency, association or organization, which arranges for or cares for children unrelated to the operator of the facility, apart from the parents, child-care facilities may be established for profit or not for profit.
"Child-care facility" is further defined in the Child-Care Act of 1969. (Section 2-05 of the Act)

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. (Section 2.05 of the Child Care Act of 1969 [225 ILCS 10/2.05])

"Conditional employee" means an individual (including any substitute, assistant, volunteer or work-study student used to replace or supplement staff in the direct care or supervision of child(ren)) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions which involve contact with children as part of the job duties in the present or prospective employment and who has commenced such duties while awaiting the results of the background check required by this Part.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act)

"Emergency shelter," as used in this Part, means a licensed youth emergency shelter which provides shelter care services, including overnight shelter, to youth from 14 to 18 years of age and their children and which may provide overnight shelter to persons up to age 21. An emergency shelter which provides overnight shelter to persons under 18 years of age may not shelter persons over age 21 and their children.

"Homeless youth" means persons found within the State who are under the age of 21, are not in a safe and stable living situation and cannot be reunited with their families.

"Homeless youth" means persons found within the State who are under the age of 21, are not in a safe and stable living situation and cannot be reunited with their families. (Section 2.02 of the Act)

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Child Abuse and Neglect Tracking System (CANTS) and the Law Enforcement Agency Data System (LEADS).

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Act.

"License applicant" means the operator or person with direct

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

responsibility for daily operation of the facility to be licensed.

"Licensee" means those individuals, agencies or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing applicant" means those individuals, agencies or organizations who apply for a license from the Department of Children and Family Services.

"Licensing representative," for the purpose of this part, means those Department staff authorized under The Act to examine facilities for licensure.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a six-month period to allow the individual(s), agency or organization to become eligible for a license.

"Persons subject to background checks" means the operator(s) of the child care facility, and all current, conditional and prospective employees of the child care facility, as defined in this Section. If the child care facility operates in a family home, the license applicant(s) and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Resident" and "youth" means any person who is a resident in the shelter care services component of an emergency shelter for homeless youth.

"Shelter care services" means the provision of or referral for services as required by these rules, and the provisions of overnight sleeping facilities, laundry facilities, bathroom facilities (sink, toilet, shower), food and the adult supervision of such services when they are in operation and available to the recipients of these services.

"Youth Emergency Shelter" means a child care facility licensed by the Department to provide shelter care services, including overnight shelter, and referral for other shelter care services, to homeless youth from 14 to 18 years of age and their children in accordance with the requirements of the Act, as amended, and the requirements of 89 Ill. Adm. Code 410, Licensing Standards for Youth Emergency Shelters.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 410.30 Effective Date of Standards (Repealed)

~~The standards prescribed in this part shall become effective upon the date they are officially adopted and published and shall apply within 180 days of the effective date of this part to all facilities currently operating as an emergency shelter for homeless youth.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 410.40 Application for License

a) The individual applicant or governing body of the supervising organization or agency shall file the application for license as an emergency shelter on forms provided by the Department.

b) For the application to be considered complete, the following items shall be attached to the application:

- 1) staffing plan, including job descriptions and qualifications of staff;
- 2) program plan; and
- 3) annual operating budget showing anticipated expenses and income; and
- 4) a list of employees subject to the background check requirements of 89 Ill. Adm. Code 385, Background Checks and each employee's complete, signed authorization to conduct the background check.

c) A new application shall be filed:

1) when an application for a license has been withdrawn, and the agency seeks to reapply; or

2) when there is a change in:

- A) the name of the licensee;
- B) the address of the emergency shelter;
- C) the supervising agency; or

3) not sooner than 12 months after when the Department has revoked or refused to renew a license, and a new license is sought; or

4) when the facility has been operating for at least one year and requests an increase in license capacity to more than 16 residents.

d) A new application may be submitted at any time when a license, permit or application has been voluntarily surrendered or withdrawn by the applicant.

e) ~~If a child care facility's license is revoked, or if the Department refuses to renew a facility's license in accordance with Sections 8 and 9 of the Act, the facility may not reapply for a license before the expiration of 12 months following the Department's action provided, however, that the denial of a re-application for a license pursuant to this Section must be supported by evidence that the prior~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~revocation renders the applicant unqualified or incapable of satisfying the standards and rules promulgated by the Department pursuant to this Act or maintaining a facility which adheres to such standards and rules.~~

f) ~~If the facility re-applies following the expiration of the 12-month period, the application shall be considered to be an application for initial license and not an application for renewal of license.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 410.60 Provisions Pertaining to the License

a) An emergency shelter which provides shelter for youth from the age of 14 to 18 shall be licensed under this Part. A youth emergency shelter may shelter persons up to the age of 21. A youth emergency shelter shall not shelter any person over the age of 21 or under the age of 14 except that the children of homeless youth may be sheltered with their parents.

b) An emergency shelter license is valid for four two years unless revoked by the Department or voluntarily surrendered by the licensee.

c) The number of persons admitted to the emergency shelter shall not exceed the license capacity.

d) The age limits specified on the license shall be observed.

e) Children under 18 years of age whose parents, guardians, custodians, or other person(s) responsible for the care of the child serve as staff members maintaining a residence in the emergency shelter shall be included in determining the license capacity if they live in the same quarters as youth accepted for care. A background check, as required by 89 Ill. Adm. Code 385, Background Checks shall be conducted on all such children age 13 and over.

f) The following changes in licensing status shall occur only upon prior approval of the Department:

- 1) the age or sex of youth served;
- 2) the licensed capacity; and
- 3) the area within the emergency shelter used for residents.

g) The license shall not be transferred or transmitted to another individual, or other legal entity organization or sponsor.

h) The license shall not be valid for a name or an address different than the name and address shown on the license.

i) The license shall be displayed on the premises.

j) There shall be no fee or charge for the license.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 410.70 Provisions Pertaining to Permits

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

a) A permit shall not be issued until:

- 1) the application for license has been completed and signed by the applicant and submitted to the Department;
- 2) written clearances issued by the State or local authorities concerning compliance with the fire, health, sanitation and safety requirements as specified in state rules and municipal codes are received. Such State rules include when applicable Fire Prevention and Safety (41 Ill. Adm. Code 100); Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 180); Storage, Transportation, Sale and Use of Liquefied Petroleum Gas (41 Ill. Adm. Code 200); Boiler and Pressure Vessel Safety Rules and Regulations (41 Ill. Adm. Code 120); Food Service Sanitation Code (77 Ill. Adm. Code 750); Private Sewage Disposal Code (77 Ill. Adm. Code 905); Control of Communicable Diseases Code (77 Ill. Adm. Code 690); Illinois Plumbing Code (77 Ill. Adm. Code 890); Structural Pest Control Code (77 Ill. Adm. Code 830). If well water is used, a copy of the inspection report and certification of compliance with local or state health department regulations (Illinois Water Well Construction Code (77 Ill. Adm. Code 920), Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)) must be on file;

- 3) a person in charge of the daily operation (administrator or homeless youth supervisor) of the emergency shelter has been selected who has passed the background check requirements of 89 Ill. Adm. Code 385, Background Checks and is prepared to begin work at the facility;
- 4) furnishings, equipment and space sufficient for the number of youth to be served have been acquired;
- 5) child care staff sufficient for the number of youth to be served have been selected and are prepared to begin work at the facility;

- 6) background inquiries required by Section 410.130 have been completed;
- 7) a plan for the provision of food, clothing, educational and religious opportunities and health care of youth has been developed;
- 8) the facility has established procedures and forms to maintain required records including records on the youth served;
- 9) a written plan on how the requirements for licensure will be met within the permit period has been developed;
- 10) a projected annual budget for the emergency shelter, approved by the supervising individual or the policy-making body of the supervising organization, has been developed; and
- 11) an on-site visit to the facility by the licensing representative has been completed.

b) A permit shall not be issued retroactively.

c) The permit shall not be transferred or transmitted to another

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- individual or other legal entity ~~organization or sponsor~~.
- d) The permit shall not be valid for a name or an address different from the name and address shown on the issued permit.
 - e) The permit shall not be renewable.
 - f) The permit shall be displayed on the premises at all times.
 - g) A license shall be issued any time within the six-month period covered by the permit provided the facility achieves and maintains compliance with the Department's licensing standards.
 - h) There will be no fee or charge for issuing the permit.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 410.100 Homeless Youth Staff

- a) A homeless youth supervisor shall be required for any shelter which is serving more than 10 homeless youth and shall:

- 1) be at least 25 years of age;
 - 2) have obtained a high school diploma or GED certificate;
 - 3) have three years of full-time experience in a residential or shelter care program or in related youth service programs;
 - 4) demonstrate skill in working with and managing youth of the type served in the program; and
 - 5) demonstrate ability to work cooperatively with administrative staff and persons external to the program.
- b) Homeless youth caretakers are those persons whose primary responsibility is the daily supervision of the residents. Persons employed in other capacities may function as homeless youth caretakers provided they are qualified as homeless youth caretakers and other duties do not interfere with supervision of the youth. Homeless youth caretakers shall:

- 1) be at least 18 ~~twenty-one~~ years of age, if there is an on-site supervisor. If there is no on-site supervisor, child care staff must be at least 21 of age;
- 2) have obtained a high school diploma or GED certificate;
- 3) be in good physical and mental health per Section 410.150;
- 4) have demonstrated through employment or volunteer work:
 - A) skills in the field of child care or the capacity to develop such skills;
 - B) ability to work within the program structure and to accept supervision; and
 - C) ability to work constructively with parents, other agencies and the community.
- c) Administrators may approve a foster parent licensed by the Department of Children and Family Services to serve as a homeless youth caretaker for up to six homeless youth in the licensed foster home provided space requirements are met and no other population of foster children is being served in the home.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 410.140 Background Checks Inquiry

- a) The supervising organization shall ensure that all prospective and current employees and volunteers used to replace or supplement staff submit to fingerprinting (when required), authorize a background check and otherwise meet the requirements of 89 Ill. Adm. Code 385.1 (Background Checks).
- b) As a condition of issuance or renewal of a license by the Department, the supervising organization that sponsors the emergency shelter shall require all prospective and current employees, volunteers and subcontractor employees who have direct contact with shelter residents to furnish information on any offenses (other than a minor traffic violation) for which they have been convicted in accordance with the standards set forth in the Department's rule ~~rulemaking~~ 89 Ill. Adm. Code 385. 89-111-Adm-Code-350-(Background-Inquiry-for-Purchase-of-Service-Providers).
- c) An employee may begin work while awaiting the results of the background check. Such employees shall not be left alone with children until the results of the initial background check have been received.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 410.350 Records and Reports

- a) The supervising individual or organization shall maintain current records on each child receiving shelter care services, on agency personnel (including volunteers), and on each facility operating under its supervision.
- b) If the youth remains at the shelter more than five 5 days in a 30 day period records for each youth shall include a brief admission history, guardian/parental permission for care, name, birthdate, proof of age, name, address, and phone number of parent or legal guardian, religion, educational level, and case recording reflective of the ongoing shelter care of the youth.
- c) Records shall be maintained on all employees and, in addition, for each volunteer who has responsibility for the care and supervision of youth. The records shall document compliance with Section 410.140, Background Checks, Inquiry.
- d) The supervising individual or organization shall maintain a separate file of responses to the background inquiry required by Section 410.140 and 89-111-Adm-Code-350-(Background-Inquiry-for-Purchase-of-Service-Providers) and the results of the background checks check required by Section 410.140 and 89 Ill. Adm. Code 385.1 (Background Checks).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- e) The supervising individual or organization shall maintain records on staff and volunteers and shall submit reports to the Department on forms prescribed by the Department. The following personnel reports are required:
- 1) A personnel report on each new employee (including owner, operator, or director) shall be filed with the Department. A copy of this report shall be kept at the agency.
 - 2) All staff changes shall be reported to the Department within ten days after beginning employment. Such reports shall be accompanied by complete, signed authorizations for background checks as required by 89 Ill. Adm. Code 385, Background Checks, immediately.
 - 3) Copies of documentation of medical information, verification of educational achievement, and character references of employees shall be provided upon request by the Department.
 - f) Financial records of operations shall be maintained as part of the permanent records of the emergency shelter and shall include a copy of the annual audit.
 - g) In addition to the records maintained by the supervising individual or organization, the emergency shelter shall maintain current records on its premises. These records shall include a daily log which includes entries on each resident's stay in the emergency shelter and records any unusual incidents or serious occurrences and the use of any behavior management techniques as described in 89 Ill. Adm. Code 384, (Discipline and Behavior Management in Child Care Facilities).
 - h) The emergency shelter shall report to the resident's parent or legal guardian and the Department any unusual incidents and serious occurrences involving residents under age 18. These incidents and occurrences shall be reported in writing, or if made verbally, confirmed in writing within 2 working days of the occurrence. Unusual incidents or occurrences include serious accident or injury requiring extensive medical care or hospitalization, death, arrest, alleged abuse or neglect, major fire or other emergency situations, or any serious incident which results in legal action by or against the emergency shelter, which affects any resident, personnel or conduct of the temporary shelter.
 - i) Records shall be kept in safe, locked places.
 - j) Authorized Department licensing representatives or other Department representatives who have the Director's written authorization shall have access to the records and reports. All persons who have access to the records and reports shall respect their confidential nature.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Construction and Filing of Accident and Health Forms
- 2) Code Citation: 50 Ill. Adm. Code 2001

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
2001.10	Amended
2001.20	Amended
2001.30	Amended

- 4) Statutory Authority: Implementing Sections 143, 355, 356a and Articles IX and XX and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Art. IX, Art. XX and 401].

- 5) A Complete Description of the Subjects and Issues Involved: The Department has opened this rule up primarily for updating and housekeeping purposes. We are revising this rule to reflect current statutory requirements and we are cross referencing Part 916 which tells companies how to file numerous types of policy forms in addition to accident and health insurance forms.

- 6) Will this proposed Amendment replace emergency rule currently in effect?
No

- 7) Does this Amendment contain an automatic repeal date? No

- 8) Does this proposed Amendment contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This amendment will not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

John Palombi	Denise Fuchs
Staff Attorney	Rules Unit Supervisor
Department of Insurance	Department of Insurance
320 West Washington	320 West Washington
(or)	
Springfield, IL 62767	Springfield, IL 62767
(217) 785-8559	(217) 785-8560

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that these amendments will not affect small businesses.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 13) Regulatory Agenda on which this Amendment was summarized: July 1995
- The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
 CHAPTER I: DEPARTMENT OF INSURANCE
 SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCE

PART 2001

CONSTRUCTION AND FILING OF ACCIDENT AND HEALTH INSURANCE POLICY FORMS

Section

2001.10 Applicability Application

2001.20 Rules-for Construction of Accident and Health Insurance Policy Forms
 2001.30 Rules-for Filing of Policy Forms

AUTHORITY: Implementing Sections 143, 355, 356a and Articles IX and XX and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Art. IX, Art. XX and 401].

SOURCE: Filed and effective April 1, 1952; codified at 7 Ill. Reg. 3471; amended at 20 Ill. Reg. _____, effective _____.

Section 2001.10 Applicability Application

This Part shall apply to:

- a) Individual and-family-group accident and health policy, certificate, endorsement, rider and application forms filed with this Department by both foreign and domestic companies with respect to Section 143, Article IX and Article XX of the Illinois Insurance Code [215 ILCS 5/143, Art. IX and Art. XX] approved-June-29-1937-effective-July-1-1937-as-amended-June-29-1951-effective-January-1-1952.
- b) This Part shall ~~these rules and regulations~~ with also apply--where applicable to individual and-family-group policy, certificate, endorsement, rider and application forms which are filed in accordance with Section 356a of the Illinois Insurance Code [215 ILCS 5/356a] effective-January-1-1952.
- c) The filing procedure for accident and health forms as required by Section 355 of the Illinois Insurance Code [215 ILCS 5/355].
- d) The filing procedure for accident and health insurance policy forms prescribed by 50 Ill. Adm. Code 916.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2001.20 Rules-for Construction of Accident and Health Insurance Policy Forms

- a) Section 356a. Form of Policy.
 It Each policy Sub-section--(2)--The Department will require each form of a domestic company, which is issued for delivery to a person residing in another state, must to be approved by the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Director unless such policy form is shall-be subject to approval or disapproval by such other state.

2) Sub-Section-(3)-is interpreted as follows:

- A) The insurer may continue to issue during the period January 1-1952 to January 1-1957 any policy form rider or endorsement which could have been lawfully used or delivered or issued for delivery to any person in the state immediately before January 1-1952.
- B) Until January 1-1957 the Department will continue to approve any policy form rider or endorsement which could lawfully be used or delivered or issued for delivery to any person in this State immediately before January 1-1952.
- C) After January 1-1957 the Department will approve only those policy forms riders or endorsements which are drawn to conform with Article XX of the Illinois Insurance Code approved June 29, 1937, as amended June 29, 1951.
- B) All policy forms riders and endorsements which are not drawn to conform with Article XX of the Illinois Insurance Code as amended June 29, 1951, effective January 1-1952 will become obsolete January 1-1957 and may no longer be lawfully issued or delivered or issued for delivery to any person in this State after that date.
- B) Sections 356, 357, 358, 359, 363, 365 and 366 of the Illinois Insurance Code as in effect prior to the effective date of the June 29, 1951 amendment are hereby incorporated into and made a part of this Part 17 Rules for Construction of Accident and Health Forms by express reference and will be applicable to all forms filed in accordance with sub-section (3) of Section 356.
- b) Section 357.1a Accident and Health Policy Provisions Required.
 Sub-Sections (1)-(2) and (3):
 1) In order to expedite departmental action on policies submitted for approval, it is requested that to the maximum extent possible companies adhere to the statutory wording and order of the required provisions. Policies submitted which include variations from the statutory words and order must be accompanied by a complete list of all variations and a justification for each. Extensive variations, without adequate justification, will only result in delay in the processing of such policies. The companies' cooperation in keeping such variations to a minimum is essential for efficiency and economy in department operation.
- 2) Each provision of Section 357.2 through 357.113 of the Illinois Insurance Code [215 ILCS 5/357.2 through 357.113] sub-sections (1)-(2) must be preceded by a caption and if the captions differ in any respect from the captions appearing in the law such sub-sections changes must be clearly indicated and justified pursuant to subsection 2001.20(b)(1) above as explained under (1) above.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 3) Numbering of the "Required Provisions" will not be required.
- c) Section 359a. Application.
- 1) Where an Industrial policy is issued upon signed application of the person to be insured, such application shall conform with provisions of Section 359a of the Illinois Insurance Code [215 ILCS 5/359a].
 - 2) The Application:
 - A) Where changes are made on the application for administrative purposes only, such changes must be clearly indicated.
 - B) Where the application is subject to being changed for administrative purposes by the insurer, such application shall clearly indicate that any such changes are not to be ascribed to the applicant.
 - d) Section 361a. Age Limit.
Any policy form containing an "age limit" shall contain in substance a provision setting forth the limitations of Section 361a of the Illinois Insurance Code [215 ILCS 5/361a].
 - e) Section 362a.
Non-application to Certain Policies.
~~Clause (3) of this~~ Section 362a(3) of the Illinois Insurance Code [215 ILCS 5/362a(3)] does not apply to family group accident and health insurance provided for under Section 356a-sub-section (1)-(c) of the Illinois Insurance Code [215 ILCS 5/356a(1)(c)].
 - f) Section 368.
Industrial Accident and Health Insurance. The Department will require Industrial Accident and Health policy forms to be of the same form and content as other accident and health insurance policy forms required to be filed in accordance with pursuant to Section 355 of the Illinois Insurance Code [215 ILCS 5/355], except Industrial Policies shall be issued on a weekly premium basis and contain the words "Industrial Policy" printed on each form.
 - g) All provisions of the Third Edition of the Official Guide which are consistent ~~not inconsistent~~ with the statute will be required.
 - h) Accident and Health Insurance:
 - 1) ~~May Accident--and--Health--insurance--may~~ only be defined as insurance against bodily injury, disablement or death by accident and against disablement resulting from sickness or old age and every insurance appertaining thereto.
 - 2) Terms such as "external" and "violent" in connection with the definition of accident and health insurance are not acceptable.
 - i) The information required in Section 356a-sub-section(1),(a) and (b) of the Illinois Insurance Code [215 ILCS 5/356a(1)(a) and (b)] must appear in the policy form itself or its ~~fitting-back~~ schedule page and cannot be added to the policy by rider, endorsement, or supplement. Although riders, endorsements and supplements, when attached to the policy form, become a part of the contract, it is evident the law intends that the aforementioned information be made a part of the policy form itself, since this Section specifically refers to the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- policy and distinguishes between the policy forms, riders and endorsements.
- j) Funeral benefits will not be permitted in accident and health contracts. ~~This ruling will not apply to contracts issued pursuant to Section 356a-sub-section (3)-7.~~
 - k) ~~There is no general law in the State of Illinois which requires that all hospitals be licensed and many hospitals in this State are not incorporated. The words "licensed" or "incorporated" will not be acceptable in referring to hospitals in accident and health insurance contracts issued in this State. If hospitals are defined in accident and health contract contracts in forms presented for use in this State, then an appropriate definition must be used. A term such as "legally operated hospital" or any other definition which is definite and applicable in this State, will be accepted.~~
 - l) Waiting period provisions in accident and health insurance contracts which stipulate the contract must be maintained in "continuous force" or "in force for _____ months after the effective date of the policy" or "in force for _____ months prior to the date of the loss," will not be accepted. Such provisions do not adequately and clearly cover reinstatements and therefore, such waiting periods must be based upon the loss occurring _____ months after the effective date of the policy and read similar to: No indemnity will be paid for loss which occurs, or commences, prior to _____ months after the effective date of the policy.
 - m) Additional waiting periods for certain designated diseases or illnesses based upon inception beyond the usual customary 15 to 30 days provided for in the Insuring Provisions are not permissible. If additional waiting periods are deemed necessary by the company for certain diseases and illnesses, then the Department requires we require that such waiting periods be based upon the loss occurring so many months after the effective date of the policy rather than being based on the inception of the illness or disease.
 - n) "Strict compliance provisions" in accident and health insurance contracts will not be acceptable for use in this State.
 - o) Any specific requirement for medical attendance by a licensed physician other than that attendance which is normally and customarily required for the disease or accident resulting in loss for which claim is made, will not be acceptable.
 - p) In accident and health insurance contracts which include "medical attendance benefits" and "surgical benefits" and limits liability to only one, provision must be made for the payment of the greater benefit.
 - q) Broad, indefinite, ambiguous and inconsistent language must be excluded from all accident and health insurance forms. Examples of such wording are:
 - 1) The use of the words "indirectly" and "partly" in connection with Exclusions, Limitations and Reductions,
 - 2) The use of the word "reasonable" when used in connection with

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

medical attendance or any other condition or requirement included in the policy form, unless use of such word results in the provision being more favorable to the insured.

- 3) The use of such words as "appendages" "involving", "affecting", etc. in connection with specified physical conditions. Medical terms should be definite, for instance, various types of hernia should be spelled out, or provide a general statement that all types of hernia are meant.

- r) Surgical Benefit Provisions in accident and health insurance contracts must include and provide either:

- 1) That all operations will be covered not to exceed a stipulated amount for any operation that may be performed, or

- 2) The inclusion of a schedule of operations which includes:

- A) Comparable benefits for operations of comparable severity;
- B) A provision which requires the company to pay a benefit for any operation not listed in the schedule, based on an amount equivalent to that specified for a listed operation of comparable severity; and
- C) A provision which requires the company to pay for that operation which provides the largest benefit when the company's liability is limited to one operation where more than one is performed, under named or enumerated conditions.

- s) Surgical benefit provisions which are contingent upon payment of a hospital confinement benefit will not be approved.

- t) Benefits for hospital room which are based upon the actual expense incurred, may be made contingent only upon a charge being made by the hospital. Benefits payable on a stated or flat rate basis, regardless of the amount of expense incurred, may make the benefit contingent upon hospital confinement of so many hours.

- u) Premium, Cancellation and Renewal Provisions:

- 1) Waiver of Premium Provisions must include a statement of coverage and of the insured's rights and obligations regarding the resumption of premium payments after the period of total disability has terminated during which the premium has been waived. This statement must read similarly to: After the termination of the period of total disability, during which a premium has been waived, the insurance afforded in this contract shall continue in full force and effect until the next premium due date, at which time the insured shall have the right to resume the payment of premiums as provided in the contract.

- 2) If a premium is to be charged for the period from the expiration of the period of total disability during which a premium has been waived and the expiration date of the policy, then a statement of this fact must be added to the provision together with a provision that the insurer will notify the insured of the premium due.

- 3) A policy which contains a cancellable provision may add at the end of the above provision in (u)(2) above, "subject to the right

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

of the insurer to cancel in accordance with the cancellation provision hereof."

- 4) A policy in which the insurer reserves the right to refuse any renewal premiums, shall add, "unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by records of the insurer, _____, written notice of its intention not to renew this policy beyond the period for which the premium has been waived."

- 5) Paragraphs--(3)--and--(4)--above, will not apply where a contract contains the Grace Period provision provided by Section--957a--of the Illinois Insurance Code, as that provision incorporates the requirements set forth in the above paragraphs--(3)--and--(4)--

- v) Requirements for the so-called "franchise insurance" are different from those for individual contracts in the following respects: Termination either by cancellation or refusal to renew any individual contracts of the group is prohibited, unless all like contracts of the group are terminated at the expiration of the contracts and upon at least ten days' notice in advance. The only other termination conditions which may be included in such contracts are those which terminate coverage because of nonpayment of premium, discontinuance of employment of the insured by the named employer or the discontinuance of membership in the designated organization or association, and in addition, coverage may be automatically terminated at a designated attained age.

- w) Policy forms, which in the opinion of the Department, will invite misrepresentations in the advertising and sale of the same, due to the restrictive nature of such forms as a result of unusual and/or over-lapping exclusions, limitations, reductions, or conditions, will not be accepted for use in this State.

- x) Time limitations, when included in benefit provisions, must be explained in terms such as hours, days, weeks, months or years. Terms such as "immediately" or "reasonably" are not acceptable, unless use of such words make the provision more favorable to the insured.

- y) Policy contracts issued by assessment companies must include a provision setting forth the contingent liability of the insured and should be based upon the regular premium provided in the policy, and in addition thereto, such premium payments as may be required by the company from time to time. This provision should be placed in the contract with equal prominence to the benefit provisions.

- z) Where a contingent liability provision is included in a contract issued by a mutual company as provided in Section 55 of the Illinois Insurance Code [215 ILCS 5/55], the contingent liability of the policyholder must be based upon not less than one nor more than ten times the amount of the premium expressed in the continuation paragraph of the policy. This provision should be placed in the contract with equal prominence to the benefit provisions.

- aa) Limited policy contracts will not be approved which, in the opinion of

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

the Director Department, set sets forth in a more prominent manner the provisions for relatively large benefits for specified accidents of rare occurrence than provisions for relatively low benefits for accidents of more frequent occurrence. Accumulative indemnities benefits are permissible, but schedules showing such benefits will not be approved in accident and health contracts.

bb) Riders, Endorsements and Exclusions:

1) Riders and endorsements which are not complete in themselves must be accompanied by the fill in material to be used therewith, to be acceptable.

2) Exclusion of coverage riders and endorsements, executed subsequent to the issuance of the policy, must provide for the signed acceptance of the insured in addition to a statement to the effect that such rider or endorsement is not valid unless signed by the insured. Policy forms which unilaterally reduce benefits must be formally approved by the Director prior to the date they are attached to a policy issued or delivered in this State.

3) Riders or endorsements submitted for the purpose of amending forms submitted in accordance with Section 355 of the Illinois Insurance Code [215 ILCS 5/355], so that such forms will comply with the requirements of the Illinois Insurance Code or regulations of this Department, will not be accepted for approval, unless the Director Department is given an adequate justification, in writing, for the use of such riders or endorsements.

cc) Section 359a-Article-XX, when applied to family-group-insurance contracts, is interpreted as meaning that the person signing the application for the family-group-coverage is the person insured in the family-group-contract-against-loss-incurred-by-members-of-the-family (which-members-may-include-the-insured)-who-are-listed-in-the-application-or-added-subsequently-the-wording-in-the-policy-forms riders-and-endorsements-must-be-drawn-accordingly-

cc)dd) Application:

1) Questions in an application pertaining to diseases or conditions must be broken down so that applicants the-applicant may insert their his answer at least after every four or five diseases or conditions listed unless questions are grouped as to related diseases or conditions.

2) Application forms which are drawn for completion by one individual for himself or herself and others cannot include a certification as to the correctness of the answers in the application without some qualifications, preferably in the Attestation Provision, and should read similar to "to the best of your knowledge", or "to the best of your knowledge and belief". The courts have held that answers to the questions are given to the best of the applicant's belief, and the Department sees we see no reason why the aforementioned qualification should not be

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

contained in the application.

3) The receipt and/or application or policy provisions may provide that the insurance shall be effective upon issuance and the payment of the first premium while the insured is in good health. Provisions which provide the insurance shall not become be effective until delivery of the policy while the insured is in good health, will not be acceptable.

dd) Where the application provides for a written proxy, such proxy must be executed over the separate signature of the applicant. The signature required for the application in accordance with Section 359a of the Illinois Insurance Code [215 ILCS 5/359a] may not be used to satisfy the foregoing rule this requirement.

ee) Advertising appearing on an application form, or any other form that requires the approval of this-Department-is-passed-upon-by-this-Department-in-conjunction-with-the-form-itself the Director, is reviewed and filed by the Director in conjunction with the approval of the form. This is in conformity with Section 143 of the Illinois Insurance Code [215 ILCS 5/143].

ff) The Director this-Department requires that any form, previously approved and subsequently revised, must be submitted under a new form number, and be approved in accordance with Section 143 of the Illinois Insurance Code [Supra]. This applies to advertising appearing on applications or other forms approved by the Director this-department. The only exception to this is advertising which contains statistical information, such as the amount of claims paid or assets. For changes of this kind, the insurer need not submit a new form number, but only advise the Department in writing as to the change in the statistical information and the date of change. Advertising is not subject to approval but is filed for reference informational purposes only. See 50 Ill. Adm. Code 916 for appropriate transmittal sheets and instructions.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 2001.30 Rules for Filing of Policy Forms

a) Policy forms, riders and endorsements-drawn-to-conform-with-Article-XX-of-the-Illinois-Insurance-Code-as-amended-prior-to-and-as-of-January-17-1959, must be formally filed pursuant to 50 Ill. Adm. Code 916 as follows:

1) Two copies of all such forms shall be submitted in blank. If the form does not clearly indicate the place for the name of the insured, time the insurance becomes effective, and the benefits, it will be required that such forms be completed at the time of issuance as-for-insurance.

2) The-application-to-be-used-in-connection-with-the-policy-rider or-endorsement-must-be-made-a-part-of-the-filing-in-addition

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

the approval date must be given for application forms previously submitted to and approved by this Department.

23) Each form must bear an identifying form number in the lower left corner of the first page. The form number is limited to thirty (30) characters. No other date, except the inclusion of a printing date and/or designation of a state, where a special edition is required, will be permitted in such space.

34) The it will be necessary for the insurer to submit a filing shall file a letter containing the following information of submission as required by 50 Ill. Adm. Code 916.40(b)(1) through (6) containing:

- A) The name of the form, if any, and identifying form number.
 - B) If the submission is a new form, so state.
 - C) If the form is intended to supersede another, give the form number of the form replaced and the date it was approved by this Department and highlight all changes from the previously approved form. Any changes not highlighted will not be deemed to be approved.
 - B) Indication must be given in exact detail as to every difference from the provisions and wording of the statute as provided in Section 357a (1) and (2).
 - B) A clear statement as to how any difference in the provisions and the wording of the statute as provided in Section 357a (1) and (2) are not less favorable in every respect to the insured or the beneficiary.
 - F) A clear statement as to any difference in the provisions and the wording of the statute or the omission of any provision or part of a provision of the statute because of inconsistency or inapplicability with the coverage provided in any particular policy form as provided in Section 357a (3).
 - G) Where provisions are contained in any policy of a foreign or alien insurer as provided in Section 357a (6) (a) a statement of the laws prescribing or requiring such provision must be given.
 - H) Where provisions are contained in any policy of a domestic insurer as provided in Section 357a (6) (b) a statement of the laws permitting or requiring such provision must be given.
 - I) Where the provisions of sub-sections (1) and (2) of Section 357a do not appear in the order as such sub-sections as provided by sub-section (4) of Section 357a a clear statement must be made indicating where such provisions may be found in the policies and/or certificates.
- b) Copies of the policy forms, riders and endorsements forms submitted as provided above will be retained in the files of this Department. Under no circumstances will copies of forms be returned to the company with our stamp of approval thereon. Notice of approval will be given

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

by letter or copy of the submitted transmittal form with the Department's stamp affixed thereto only.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Eligibility
- 2) Code Citation: 89 Ill. Adm. Code 682
- 3) Section Numbers: Proposed Action:
682.300 Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: The Department of Rehabilitation Services is filing this rule to amend Subpart D to assure an individual is receiving home care services from only one agency seeking reimbursement for the services through a Medicaid Waiver.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This is not applicable to this Rulemaking.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and Comments should be submitted in writing to:

Ms. Susan Warrner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, IL 62794-9429
(217) 785-3896
TTY: (217) 785-9301

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: n/a

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

- B) Reporting, bookkeeping or other procedures required for compliance:
n/a
- C) Types of professional skills necessary for compliance: n/a
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated at the time of the January 1996 Regulatory Agenda.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
 SUBCHAPTER d: HOME SERVICES PROGRAM

PART 682
 ELIGIBILITY

SUBPART A: GENERAL APPLICABILITY

Section
682.10 General Applicability

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section
682.100 General Eligibility Criteria

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section
682.200 Assets Limitation
682.210 Transfer of Assets
682.220 Exempt Assets
682.230 Assets Held in Joint Ownership
682.240 Income Allowances
682.250 Cost Sharing Provisions
682.260 General Exceptions to Cost Share Provisions

SUBPART D: EFFECT OF OTHER SERVICES ON HSP

Section
682.300 Effect of Other Services on HSP

SUBPART E: REDETERMINATION OF ELIGIBILITY

Section
682.400 Redetermination Requirements
682.410 Redetermination Time Frames

SUBPART F: GRANDFATHERING PROVISIONS

Section
682.500 Exceptions to Eligibility Standards
682.510 Exceptions to Cost Sharing Provisions
682.520 Exceptions to Service Cost Maximums

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act
 (20 ILCS 2405/3).

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted at 19 Ill. Reg. 5070, effective March 21, 1995; amended at 20 Ill. Reg. _____, effective _____.

SUBPART D: EFFECT OF OTHER SERVICES ON HSP

Section 682.300 Effect of Other Services on HSP

a) An individual cannot receive services through HSP if he/she is receiving services through any other agency's home care program if that agency will seek reimbursement for those services through a Medicaid Waiver of the following program:

1) Department of Mental Health and Developmental Disabilities:

A) Community Residential Alternatives (CRA);

B) Community Independent Living Arrangement (CILA);

C) Home Individualized Program (HIP);

D) Specialized Home Program (SHP); or

E) Community Habilitation Services (CHS);

2) Department on Aging's Community Care Program; and/or

3) Division of Specialized Care for Children's (BSEE) Waiver Program for children with the exception of those transitioning from BSEE to HSP who are ages 18-21 years may receive limited PA services during the transition from BSEE to HSP.

b) An individual is receiving services through a program described listed in subsection (a) above; he/she must terminate those services prior to the time any services may be provided through HSP, pursuant to Medicaid regulations.

(Source: Amended at 20 Ill. Reg. _____, effective _____.)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Illinois Children's School and Rehabilitation Center's Respite Program
- 2) Code Citation: 89 Ill. Adm. Code 787
- 3) Section Numbers:
- | | |
|--------|----------|
| 787.10 | Repealed |
| 787.20 | Repealed |
| 787.30 | Repealed |
| 787.40 | Repealed |
| 787.50 | Repealed |
- 4) Statutory Authority: Implementing and authorized by Sections 3 and 11 of the Disabled Persons Rehabilitation Act (20 ILCS 2403/3 and 11).
- 5) A Complete Description of the Subjects and Issues Involved: The attached revision repeals all of 89 Ill. Adm. Code 787. The rule dealt with the now defunct respite program for children with disabilities at the Illinois Center for Rehabilitation and Education.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This is not applicable to this Rulemaking.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner, Manager
 Regulations and Procedures Division
 Department of Rehabilitation Services
 P.O. Box 19429
 Springfield, IL 62794-9429
 (217) 785-3896
 TTY: (217) 785-9301

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.
- A) Types of small businesses, small municipalities and not for profit corporations affected: n/a
- B) Reporting, bookkeeping or other procedures required for compliance:
n/a
- C) Types of professional skills necessary for compliance: n/a
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1996
- The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
 CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
 SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 787

ILLINOIS CHILDREN'S SCHOOL AND REHABILITATION CENTER'S RESPITE PROGRAM
 (REPEALED)

Section	
787.10	Description of Respite Program
787.20	Eligibility for Respite Program
787.30	Referral and Application
787.40	Termination of Services
787.50	Appeals

AUTHORITY: Implementing and authorized by Sections 3 and 11 of the Disabled Persons Rehabilitation Act [20 ILCS 2403/3 and 11].

SOURCE: Adopted at 16 Ill. Reg. 2882, effective February 11, 1992; repealed at 20 Ill. Reg. _____, effective _____.

Section 787.10 Description of Respite Program

- a) The Department of Rehabilitation Services (DORS) provides family oriented respite care, tailored to the unique and specific needs of individual families, at the Illinois Children's School and Rehabilitation Center (ICSRC) in Chicago. Respite is defined, for this program, as short term, intermittent day or overnight care for children with disabilities.
- b) The services provided in the respite program are the following:
 - 1) medical supervision by a licensed physician;
 - 2) nursing care;
 - 3) dietary care as ordered by ICSRC's physician;
 - 4) recreation;
 - 5) activities of daily living (including bathing, dressing, meals);
 - 6) physical or occupational therapy as prescribed by ICSRC's physician; and
 - 7) educational services as described in the Individualized Educational Program (IEP) (if the length of stay is for 10 or more days).
- c) Emergency medical care and repair/maintenance of personal equipment (e.g., braces, wheelchairs) are the responsibility of, and must be paid for by, the family.
- d) Respite care shall be available only when ICSRC is in session.
- e) Up to 30 days of overnight care per 12 month period shall be provided to any single child. Daytime care is limited to four calendar days per month per child, unless additional space is available in the program.

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

Section 787.20 Eligibility for Respite Program

- a) To be eligible for the respite program at ICSRC, a child shall:
 - 1) be a resident of Illinois;
 - 2) have a physical disability or health impairment;
 - 3) be between the ages of 5 and 21;
 - 4) be medically stable and not in the last stages of a progressive disability/illness as verified by a physician's statement;
 - 5) have tested negative for tuberculosis within the past 6 months;
 - 6) have a record of updated vaccinations;
 - 7) have a signed release for emergency medical care;
 - 8) have a University of Illinois Clinic Card; and
 - 9) meet all the eligibility requirements for students admitted to ICSRC (89 Ill. Adm. Code 755.20).
- b) Eligible children will be served in the following priority order:
 - 1) children in need of care due to the loss of a primary caregiver because of hospitalization or death, or other family crisis;
 - 2) children from families with more than one child with a disability; and
 - 3) children from families who are absent from the home because of vacation, etc.

Section 787.30 Referral and Application

- a) Referrals can be made by parents, social service agencies, schools, hospitals, child care agencies, medical personnel or any other person or agency that is interested in the welfare of the child.
- b) Any individual, family or agency applying for respite care for a child shall be referred to ICSRC's social work staff who will assess the needs of the family and of the child based on the services that the Respite Program offers, the availability of a bed (if necessary), and the identification of any factors, such as family stresses, which increase the risk for child abuse or neglect if the child remains in his/her present environment. The ICSRC Physician and the Nursing Supervisor will assess the medical status of the child. The social work assessment and medical assessment will be given to the ICSRC's Respite Admission Committee.
- c) An individual, family or agency applying for respite care for a child shall submit the following information:
 - 1) Respite Care Application (IL 488-2092);
 - 2) Medical History (IL 488-2099);
 - 3) Daily Care Plan (required unless emergency care is provided) (IL 488-2096);
 - 4) Insurance Information (IL 488-2097);
 - 5) Length of Stay Agreement (IL 488-2098);
 - 6) Medical Consent Form (IL 488-2093);
 - 7) Emergency Treatment Consent (IL 488-2094);
 - 8) Permission for trips and visits (IL 488-0876);

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

- 9) Photo and swim consent (IL 488-2095); and
- 10) University of Illinois Clinic Card Application.
- d) The following shall be submitted to the facility administrator of ICSCRC in addition to the forms cited above at the time of application if the child is anticipated to stay in the respite program for at least 10 consecutive days:
- 1) a copy of the child's most recent Multidisciplinary Conference and IEP developed by the district of parental/student residence; and
 - 2) the child's most recent case study evaluation including all components as required by 23 Ill. Adm. Code 226.535. If the evaluation is more than three years old, ICSCRC will make arrangements for a case study evaluation to be conducted prior to the child being admitted to the respite program.
- e) When the child is enrolled in the ICSCRC respite program for 10 or more consecutive days, the rules in 89 Ill. Adm. Code Subchapter f will apply with respect to the provision of educational services.
- f) Notification of the disposition of the application will be made within 10 school days of the date of receipt of the application by ICSCRC's Respite Admission Committee. The decision of eligibility is based upon the criteria in Section 787.20. The Committee is composed of the following personnel, or their designees:
- 1) Assistant Center Administrator for Transitional Services;
 - 2) Social Services Supervisor;
 - 3) Nursing Supervisor; and
 - 4) ICSCRC Physician.

Section 787.40 Termination of Services

Services may be terminated at the discretion of the family or ICSCRC when the activities provided in Section 787.10(b) are no longer required and/or the eligibility criteria in Section 787.20 no longer are met. When services are terminated, the family will be referred to other, more appropriate long term services.

Section 787.50 Appeals

- a) Definitions. For the purpose of this Section, the following terms have the following meanings:
- 1) "Days", unless otherwise specified, means school days, i.e., Mondays through Fridays, excluding State established holidays or days on which State government offices are closed by order of the Governor.
 - 2) "Director" means the Director of DORS.
 - 3) "Grievant" means any person who has been aggrieved by any action of the ICSCRC or DORS pursuant to this Part; any person who has been denied services of the ICSCRC Respite Program; or the parent or guardian of a minor who qualifies as a "Grievant".

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

b) General Information

- 1) Any and all notices and communications made pursuant to this Section shall be in writing, unless the grievant is unable to communicate in writing. All nonwritten communications must be documented in the grievant's file.
 - 2) A personal representative may exercise any right of the grievant on the grievant's behalf. A grievant may only designate one personal representative at any one time.
 - 3) All time periods related to communications arising under this Section commence on the date of receipt for mailed items (receipt is presumed 4 days from the date of postmark); or on the day of delivery for hand delivered items; or on the date of receipt of a nonwritten communication.
 - 4) Appeals by any party not a grievant cannot be heard by DORS pursuant to this Section.
- c) What May Be Appealed
- The following may be appealed under this Section:
- 1) a determination that a child is ineligible for services; and
 - 2) termination of services.
- d) Grievant Rights
- 1) DORS shall make the grievant aware, in a language that is understandable to the grievant, of the right to appeal pursuant to this Section at the following times or events:
 - A) upon denial of services; and
 - B) upon termination of services.
 - 2) A Level I hearing is optional. The grievant has the right to request that the grievance proceed to Level II, which hearing shall be scheduled within 2 days after the client's request.
 - 3) The grievant may request an interpreter within 2 days after being informed of his/her rights, either sign (if the grievant is hearing impaired) or language (if the grievant's normally spoken language is other than English), to attend the hearing. A visually impaired grievant may either request a reader to read materials provided by DORS in preparation for the hearing or request that the materials be provided in Braille, large print or audiotape.
 - 4) All meetings with the grievant pursuant to this Section must occur at a time and location convenient to both parties.
 - 5) All proceedings pursuant to this Section are to be confidential and not open to the general public unless requested to be so by the grievant.
 - 6) After a request for a hearing is received by DORS, the grievant will be provided with written notification of his/her right to:
 - A) review the case file and other related documents;
 - B) be represented by a personal representative who has filed an appearance with DORS pursuant to Section 787.50(b)(2);
 - C) an explanation of the appeal process as set forth in this Section;

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

- D) request an interpreter pursuant to subsection (d)(3) of this Section;
- E) decline to appear for a Level I or II hearing, in which case the case file and any new evidence or information submitted by the grievant shall be reviewed and a decision made based on that review by the Hearing Officer;
- F) withdraw the appeal at any time during the process, in which case the grievant cannot request a reopening of the appeal;
- G) a timely and impartial hearing;
- H) confidentiality of these proceedings, as set forth in 89 Ill. Adm. Code 505.10 and pursuant to subsection (d)(5) above; and
- I) have DORS employees involved in the appealed action present at the hearing, and to question them.

e) DORS' Rights

DORS has the right to:

- 1) have a DORS attorney present at any hearing;
- 2) cooperation by the grievant;
- 3) publish hearing summaries, with deletions as necessary to ensure confidentiality; and
- 4) consolidate for hearing all issues relating to a grievant or to several grievants which arise out of the same set of facts and circumstances.

f) Conduct of Level I and Level II Hearings

All hearings, as set forth in this Part, shall be conducted in the following manner:

- 1) DORS employees directly involved in the contested action shall be present to testify and can be questioned by the grievant. However, if such person is no longer employed by DORS and declines to attend the hearing after DORS has made a reasonable attempt to secure his/her attendance, the person most knowledgeable about the case shall attend;
- 2) a hearing shall not be adjourned until the Hearing Officer has received all information agreed upon, within the time the parties have agreed to provide it;
- 3) only information directly related to the issue under review, per Section 787.50(b), shall be introduced from the grievant's case file. The Hearing Officer shall not consider any information that has not been made available to the other party;
- 4) either party may present additional information and evidence, which must also be made available to the other party;
- 5) if the grievant has chosen to have a Level I hearing and then requests a Level II hearing, the Level II hearing shall review only those issues presented by the grievant in the Level I hearing or which are material and related to those presented in the Level I hearing;
- 6) the following is the order of proceedings:
 - A) presentation, argument and disposition of all preliminary

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

- motions and matters,
 - B) opening statements,
 - C) evidence presented by the grievant,
 - D) evidence presented by DORS,
 - E) rebuttal by either or both sides, and
 - F) closing statements.
- 7) The grievant and DORS shall call any person as a witness and conduct examinations and cross-examination. The Hearing Officer may examine any witness at any time or request additional information from either party.
- 8) The grievant and DORS shall, by stipulation, agree upon any facts or laws involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding.
- 9) It is the grievant's responsibility to prove to the Hearing Officer that his/her position is correct, and the grievant shall be so informed prior to the Level I and Level II hearings.
- 10) DORS shall assume all administrative costs of the appeals, i.e., interpreter, pursuant to Section 787.50(c)(2), and record, incurred by the grievant because of the proceedings, e.g., legal fees, travel, witness costs, and room and board.
- 11) All parties involved in the hearing shall avoid continuances so that the subject matter of the hearing may be resolved expeditiously. A hearing shall for good cause shown (e.g., illness of the grievant, representative, or DORS employee or severe weather problems) be continued once by the Hearing Officer. Notice of the request shall be given in writing to the other party and to the Hearing Officer no less than one (1) day prior to the previously scheduled hearing date, in the absence of an emergency.
- 12) DORS and the Hearing Officer shall be notified by the grievant of the appointment of a personal representative by filing, no later than 1 day in advance of a hearing, a notice of appearance stating the personal representative's name, address and telephone number, identifying the grievant represented, and signed by the grievant. Such notice shall be accompanied by appropriate consent for the release of confidential information to the personal representative.
- 13) At least 1 day prior to the hearing, the grievant and the DORS staff person who has taken the action being appealed shall provide each other and the Hearing Officer with a list of witnesses, copies of documents not in the possession of the other party, and a summary of the evidence that they plan to present at the hearing.
- 14) The Hearing Officer has the power to:
 - A) control the conduct of the hearing to prevent irrelevant or immaterial discussion (repetitive discussion or discussion not germane to the issue being appealed);

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

- B) rule upon all motions and other matters arising in the course of the hearing, including, but not limited to, a party's motion or objection concerning the admissibility of evidence; and
- C) require the parties, at any stage of any hearing or after all parties have completed the presentation of their evidence, to present further evidence including, but not limited to, the production of any and all documents, books, papers and accounts the Hearing Officer deems material or relevant to any issue.
- 15) Any relevant evidence presented which is of a type commonly relied upon by reasonably prudent individuals shall be admitted, i.e., any information not presented in the Level I hearing previously which pertains to the issues raised in the appeal and has been made available to both parties within the agreed upon time.
- g) Level I Hearings
- 1) The request for a Level I hearing shall be received within 2 days after receipt of the written notice.
 - 2) The Hearing Officer for a Level I hearing shall be the supervisor of the DORS staff person who has taken the action being appealed, or that person's supervisor.
 - 3) The hearing shall be scheduled 3 to 5 days after the date of receipt of request for hearing. The grievant must be informed by the Hearing Officer, within 2 days after receiving the request, of the date, time, location of the hearing, name and address of the Hearing Officer (for requests for extensions), and of all rights accorded under this Section.
 - 4) Within 2 days after adjournment of the Level I hearing, the Hearing Officer shall attempt to inform the grievant, by telephone, of the decision, with written confirmation received by the grievant within 7 days.

The decision must contain:

- A) a statement of the basis upon which the decision was made;
- B) the applicable laws and policies used;
- C) the name and address of the DORS Hearings Coordinator; and
- D) a statement that if the grievant is dissatisfied with the decision, a request for a Level II hearing must be received by the Hearings Coordinator within 5 days from the date of receipt of the Level I hearing decision notice.

h) Level II Hearings

- 1) If the grievant is not satisfied with the Level I decision or requests to bypass the Level I hearing and proceed with the Level II hearing, he/she may request a Level II hearing. The request shall be received within 5 days from the date of receipt of the written Level I hearing decision, and propose an acceptable date for the hearing, which date shall be within 5 days after the request.

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

- 2) Within 1 day after receipt of the request for a Level II hearing, the DORS Hearings Coordinator shall send the grievant a letter acknowledging the request for a hearing, selecting a date, affirming the location of the hearing, stating the Hearing Officer's name and address and informing the grievant of all rights accorded pursuant to this Section.
 - 3) The hearing shall be heard by an Impartial Hearing Officer selected by the Hearings Coordinator from the list maintained by him/her.
 - 4) DORS shall make an audio tape recording of the proceedings and will provide one copy to the grievant upon request, at no cost. Upon request by a visually impaired grievant, one copy of either a Braille or large print transcript will be provided at no cost.
 - 5) The testimony and exhibits constitute the official record of the hearing.
 - 6) Findings of fact and the decision prepared by the Hearing Officer will be mailed within 1 day after the adjournment of the hearing. The decision shall state the principal issues and relevant facts brought out at the hearing, the pertinent provisions in law and DORS policy, the reasoning that led to the decision, the provisions for the Director's Review as set forth in Section 787.70(1), and any appeal rights or procedures that may be available. This decision shall be sent by certified mail, return receipt requested, to the grievant. A copy of the decision will also be sent to the Director and the grievant's representative, if any.
- i) Director's Review
- 1) The Director may choose to review any Level II decision by issuing a Notice of Intent to Review within 7 days after the receipt by the grievant of the finding of the Level II Hearing Officer. The Notice shall be mailed to the grievant. The scope of such review shall include, but is not limited to, the consistency of the Hearing Officer's findings with applicable law and regulations.
 - 2) If the Director determines that a review is necessary, based on the rationale of the findings of fact and the decision of the Hearing Officer, a Notice shall be sent to the grievant, who shall be informed of the right to submit additional written evidence and arguments to the Director, which shall be received within 7 days after receipt of the Notice.
 - 3) The DORS Hearings Coordinator and appropriate program staff shall review the grievant's case file and the transcript of the Level II hearing, and make a recommendation to the Director regarding a Level II decision which is thought to be:
 - A) in violation of constitutional, statutory or regulatory provisions, or written policy;
 - B) in excess of the statutory authority of DORS;
 - C) affected by other error of law, regulation, or written

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

policy;

- D) not reasonably supported by the evidence; or
- E) arbitrary, capricious, or characterized by abuse of or clearly unwarranted exercise of discretion.
- 4) The Director may modify, reverse or uphold the Hearing Officer's decision. This decision is based upon review of the Level I decision, the Level II record, and the Hearing Officer's decision, and any additional evidence and arguments submitted by the grievant.
- 5) The Director's decision, citing the findings and grounds, shall be sent within 12 days after the Notice by certified mail, return receipt requested.
- 6) DORS administrative action becomes final upon the decision of the Director, or if no such review has been undertaken, 10 days after the Level II Hearing Officer's decision has been issued.
- 7) Any further appeal shall be made to the courts.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Motor Fuel Tax
- 2) Code Citation: 86 Ill. Adm. Code 500
- 3) Section Numbers: 500.325
Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 505
- 5) A Complete Description of the Subjects and Issues Involved: Amends the Motor Fuel Tax regulations by providing that, in the case of a carrier using independent contractors under long-term leases (30 days or more), in the absence of a written agreement or contract designating which party (the lessor or lessee) will report and pay fuel use tax, or if the document is silent regarding responsibility for reporting and paying fuel use tax, the lessee will be responsible for reporting and paying fuel use tax.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, nor does it modify any existing State Mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996
- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Motor carriers using independent contractors under long-term leases (30 days or more).

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS
TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 500
MOTOR FUEL TAX

SUBPART A: DEFINITIONS

Section	Definitions
500.100	Definition of Receiver (Repealed)
500.101	Definition of Loss (Repealed)
500.102	

SUBPART B: MOTOR FUEL TAX

Section	Basis and Rate of the Motor Fuel Tax
500.200	Licensure
500.201	Basis and Rate of Tax Payable by Receivers
500.202	Monthly Returns
500.203	Report of Loss of Motor Fuel
500.204	Daily Gallonage Record
500.205	Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers
500.210	Documentation of Tax-free Sales of Fuel Made by Licensed Receivers
500.215	Vehicles of Distributors Transporting Petroleum Products (Repealed)
500.220	Other Vehicles (Repealed)
500.225	Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers
500.230	Claims for Refund - Invoices
500.235	Sales of Special Fuel - Variation in Usage
500.240	Estimated Claims Not Acceptable
500.245	Claimants Owning Motor Vehicles (Repealed)
500.250	Detailed Answers
500.255	Revocation of License, Etc. - Notice - Hearing
500.260	Distributors' and Suppliers' Claims for Credit
500.265	Receivers' Claims for Credit
500.270	Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit
500.275	Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems
500.280	Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas
500.285	When Purchaser's License Number With Dependent on Invoices Covering Sales of Special Fuel is Required (Repealed)
500.290	Cost of Collection - Determination (Repealed)
500.295	

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: Minimal

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: it was unanticipated at the time of the Regulatory Agenda.

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: MOTOR FUEL USE TAX

Section	
500.300	Licensure
500.301	Special Motor Fuel Permits and Decals (Repealed)
500.302	Motor Carrier's Quarterly Report (Repealed)
500.305	Licenses and Decals
500.310	Display of License and Decals
500.315	Renewal of Decals and Licenses
500.320	Single Trip Permits
500.325	Licensure of Lessors and Lessees
500.330	Cancellation of License
500.335	Quarterly Payment and Reporting
500.340	Credits and Refunds
500.345	Records Requirements
500.350	Revocation
500.355	Protest Procedures
500.360	Audits

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section	
500.400	General Information
500.405	Due Date That Falls on Saturday, Sunday or a Holiday

SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

Section	
500.500	Licenses and Permits Are Not Transferable
500.501	Blenders' Permits Are Not Transferable (Repealed)
500.505	Changes of Corporate Officers

SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

Section	
500.600	Incorporation of the Retailers' Occupation Tax Regulations by Reference

AUTHORITY: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 39b2 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b2].

SOURCE: Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Reg. 8612; amended at 10 Ill. Reg. 4540, effective February 28, 1986; amended at 11 Ill. Reg. 10295, effective May 18, 1987; emergency amendment at 13 Ill. Reg. 13271, effective August 7, 1989, for a maximum of 150 days; emergency expired January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990; amended at 15 Ill. Reg. 6305, effective April 16, 1991; amended at 15 Ill. Reg. 13538, effective August 30, 1991; recodified at 18 Ill. Reg. 4451; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 17195, effective December 18, 1995; amended at 20 Ill. Reg. _____, effective _____.

SUBPART C: MOTOR FUEL USE TAX

Section 500.325 Licensure of Lessors and Lessees

- a) A lessor regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation to licensees or other lessees may be deemed to be the licensee, and such lessor may be issued a license if an application has been properly filed and approved by the base jurisdiction.
- b) In the case of a carrier using independent contractors under long-term leases (more than 30 days), the lessor and lessee will be given the option of designating which party will report and pay fuel use tax. In the absence of a written agreement or contact, or if the document is silent regarding responsibility for reporting and paying fuel use tax, the lessee will be responsible for reporting and paying fuel use tax. If the lessee (carrier), through a written agreement or contract, assumes responsibility for reporting and paying motor fuel use taxes, the base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessee, regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor.
- c) For motor vehicle leases of 30 days or less, the lessor of the motor vehicles under lease will be liable for all requirements of the motor fuel use tax program.
- d) In the case of a household goods carrier using independent contractors, agents, or service representatives, under intermittent leases, the party liable for motor fuel tax shall be:
 - 1) The lessee (carrier) when the commercial motor vehicle is being operated under the lessee's jurisdictional operating authority. The base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessee (carrier), regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor or lessee.
 - 2) The lessor (independent contractor, agent, or service representative) when the qualified motor vehicle is being operated under the lessor's jurisdictional operating authority. The base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessor, regardless of the

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes.

- e) For licensees registered under the IFTA, leases shall be made available upon request of the Department or request of any member jurisdiction.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

- 1) Heading of the Part: Tobacco Products Tax Act of 1995
- 2) Code Citation: 86 Ill. Adm. Code 660
- 3) Section Numbers:
- | | |
|--------|------------------|
| 660.05 | Proposed Action: |
| 660.10 | New Section |
| 660.15 | New Section |
| 660.20 | New Section |
| 660.25 | New Section |
| 660.30 | New Section |
| 660.35 | New Section |

- 4) Statutory Authority: 20 ILCS 2805/39b19

- 5) A Complete Description of the Subjects and Issues Involved: Public Act 89-21, effective June 6, 1995, creates the Tobacco Products Tax Act of 1995. The Tobacco Products Tax Act of 1995 imposes a tax upon any person engaged in the business as a distributor of tobacco products. This rulemaking contains provisions concerning, inter alia, the nature and rate of the tax, general definitions, licenses, and returns.

- 6) Will this proposed rule replace an emergency rule currently in effect: No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rulemaking contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part: No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, nor does it modify any existing State Mandates.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

A) Types of small businesses, small municipalities and not for profit corporations affected: Distributors of Tobacco Products.

B) Reporting, bookkeeping or other procedures required for compliance: Minimal.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Department has been unable to publish a regulatory agenda since July 1995. Since this rulemaking implements a Public Act that became effective June 6, 1995, it was not included on that regulatory agenda.

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE

PART 660
TOBACCO PRODUCTS TAX ACT OF 1995

Section

660.05	Nature and Rate of Tobacco Products Tax
660.10	General Definitions
660.15	Licenses
660.20	Returns
660.25	Books and Records
660.30	Exempt Sales
660.35	Claims for Credit

AUTHORITY: Implementing the Tobacco Products Tax Act of 1995 [35 ILCS 143] and authorized by Section 39b19 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b19].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 660.05 Nature and Rate of Tobacco Products Tax

- a) The Tobacco Products Tax is imposed upon the last distributor, as defined in Section 660.10, who sells tobacco products to a retailer or consumer in Illinois at the rate of 18% of the wholesale price of tobacco products sold or otherwise disposed of in this State.
- b) The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision thereof, or by any municipal corporation. (Section 10-10 of the Act)

Section 660.10 General Definitions

- a) "Act" means the Tobacco Products Tax Act of 1995.
- b) "Distributor" means any of the following:

- 1) Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.
- 2) Any manufacturer or wholesaler located outside of Illinois engaged in the business of selling tobacco products who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers in this State, so long as that manufacturer or wholesaler has or maintains within this State, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

within this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

- 3) Any retailer who receives tobacco products on which the tax has not been or will not be paid by a distributor. (Section 10-5 of the Act) Such retailers may include the following:

A) A retailer who purchases tobacco products for delivery outside of Illinois. Such retailer may elect to register with the Department thereby enabling him or her to provide his or her distributors with a Blanket Certificate of Resale. See Section 660.30(f) (Exempt Sales). The retailer must then report and pay tax on those tobacco products he or she sells in Illinois. If the retailer is able to calculate the percentage of tobacco products that he or she will sell to consumers, such retailer may pay his or her supplier for those taxable sales.

B) A retailer who purchases from an out-of-State distributor, which has no nexus with Illinois and is therefore not registered with the Department. This retailer must therefore register with the Department and remit tax on sales to Illinois consumers.

- 4) Distributor does not include any person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act) A Correctional Industries program is a program that employs committed persons confined in institutions and facilities of the Illinois Department of Corrections to make, manufacture, or fabricate tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

c) "Manufacturer" means any person who manufactures and sells tobacco products, except a person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act)

d) "Retailer" means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales. (Section 10-5 of the Act)

e) "Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by persons. (Section 10-5 of the Act)

f) "Tobacco products" means any cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco;

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act)

- g) "Wholesale price" means the established list price for which a manufacturer sells tobacco products to a distributor, before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of such an established list price, the manufacturer's invoice price at which the manufacturer sells the tobacco product to unaffiliated distributors, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price. (Section 10-5 of the Act) The wholesale price of tobacco products is the established list price at the time of purchase, by the distributor who remits tax to the Department, of such tobacco products.

- h) "Wholesaler" means any person who is engaged solely in making sales of tobacco products to others for resale or sales that are otherwise exempt from tax.

Section 660.15 Licenses

a) It shall be unlawful for any person to engage in business as a distributor of tobacco products in this State within the meaning of the Act without first having obtained a license to do so from the Department. (Section 10-20 of the Act) Application for a distributor's license shall be made to the Department in form as furnished and prescribed by the Department and shall be accompanied by a joint and several bond in an amount fixed by the Department. Each licensed place of business shall be covered by a separate license.

b) The Department may, in its discretion, upon application, issue licenses authorizing the payment of the tax imposed by the Act by any distributor or manufacturer not otherwise subject to the tax imposed under this Act who, to the satisfaction of the Department, furnishes adequate security to ensure payment of the tax.

c) Wholesalers that are not registered and licensed as distributors with the Department but claim to only sell tobacco products in such a way that their sales are not taxable under this Act (e.g., resale or to exempt purchasers) are advised to apply to the Department for a resale number so that such wholesalers are able to provide distributors with Certificates of Resale when purchasing the tobacco products that will be resold. Such wholesalers need not file returns with the Department.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

Section 660.20 Returns

a) *Every distributor of tobacco products shall, on or before the 15th day of each calendar month, file a return with the Department covering the preceding calendar month disclosing the following (Section 10-20 of the Act):*

- 1) The wholesale price for tobacco products manufactured and then sold or otherwise disposed of.
- 2) The wholesale price for tobacco products purchased and then sold or otherwise disposed of.
- 3) The total cost of all tobacco products sold or otherwise disposed of.
- 4) Deductions authorized by law.
- 5) Tobacco products tax base.
- 6) Total tax.
- b) Such return shall be filed upon forms furnished and prescribed by the Department. Payment of the tax in the amount disclosed by the return shall accompany the return.
- c) Tobacco products "otherwise disposed of" include samples of tobacco products. Transfers of tobacco products between divisions of a corporation that have separate Illinois Business Tax numbers are required to be reported as sales under "otherwise disposed of."

Section 660.25 Books and Records

a) Every distributor of tobacco products who is required to procure a license under the Act shall keep within Illinois, at his or her licensed address, complete and accurate records of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold or otherwise disposed of, and shall preserve and keep within Illinois at his or her licensed address all of the following:

- 1) Invoices.
- 2) Bills of lading.
- 3) Sales records.
- 4) Copies of bills of sale.
- 5) The wholesale price for tobacco products sold or otherwise disposed of.
- 6) An inventory of tobacco products prepared as of December 31 of each year or as of the last day of the distributor's fiscal year if he or she files federal income tax returns on the basis of a fiscal year.
- 7) Other pertinent papers and documents relating to the manufacture, purchase, sale, or disposition of tobacco products.
- b) All books and records and other papers and documents that are required by the Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

Section 660.30 Exempt Sales

and employees.

c) Such books, records, papers, and documents shall be preserved for the period during which the Department is authorized to issue Notices of Tax Liability, which is generally for a maximum of 3 1/2 years.

Section 660.30 Exempt Sales

- a) Sales of tobacco products by distributors or wholesalers who will not sell the product to a retailer or consumer are exempt from the tax imposed by this Act. For example, sales by a distributor to another distributor as sales for resale are exempt from the tax imposed by this Act. Sales of tobacco products to retailers or consumers are not exempt sales (unless the retailer is a registered distributor; see subsection (f)).
- b) *The tax is not imposed upon any activity in the business as a distributor in interstate commerce or otherwise, to the extent to which that activity may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State.* (Section 10-10 of the Act) Sales of tobacco products delivered by a distributor to persons located outside of Illinois are exempt from the tax imposed by this Act.
- c) Sales of tobacco products to retailers who will deliver the tobacco products outside of Illinois are exempt.
- d) The tax imposed shall not apply to sales or other disposition of tobacco products to the United States Government or any entity thereof. For instance, sales of tobacco products to U.S. Veterans' Hospitals and U.S. Military personnel through officially recognized agencies physically located at military bases are exempt from the tax imposed by this Act.
- e) The tax imposed shall not apply to sales of tobacco products to penal institutions for use in a Correctional Industries program that makes, manufactures, or fabricates tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. However, sales of tobacco products to a penal institution that will sell tobacco products through its commissary are taxable.
- f) Under certain circumstances, a blanket Certificate of Resale may be provided by a purchaser to a distributor. These circumstances include the following:
 - 1) Retailers who purchase tobacco products for delivery outside of Illinois are exempt under subsection (c) above. However, when such a retailer may deliver tobacco products outside of Illinois but may deliver some within Illinois and where it is impracticable, at the time of purchasing the tobacco products, for the retailer to determine in which way he or she will dispose of the tobacco products, the retailer may certify to the distributor that he or she is buying all of such tobacco products for resale and provide a blanket Certificate of Resale to the

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

distributor. A retailer may provide such a certificate only if he or she is registered as a distributor under the Act and agrees to assume responsibility for reporting and remitting tax on his or her taxable Illinois sales (e.g., sales to consumers or retailers).

2) Often times, a distributor registered under this Act will also sell tobacco products to consumers. This distributor may similarly find it impracticable, at the time of purchasing the tobacco products, to determine in which way he or she will dispose of the tobacco products. Consequently, the distributor may provide the selling distributor with a blanket Certificate of Resale and assume responsibility for reporting and remitting tax on his or her taxable sales to consumers.

g) A distributor making an exempt sale of tobacco products shall document this exemption by obtaining a certification from the purchaser containing the distributor's name and address, the purchaser's name and address, the date of purchase, the purchaser's signature, the purchaser's tobacco products tax license number, if applicable, and a statement that the purchaser is purchasing for sale other than a sale at retail or is purchasing for delivery outside of Illinois or is assuming responsibility for reporting and remitting tax as provided for under subsection (f).

Section 660.35 Claims for Credit

a) If it appears, after claim therefor filed with the Department, that an amount of tax or penalty has been paid that was not due under the Act, whether as the result of a mistake of fact or an error of law, except as hereinafter provided, then the Department shall issue a credit memorandum or refund to the person who made the erroneous payment or, if that person has died or become incompetent, to his legal representative, as such.

b) If it is determined that the Department should issue a credit or refund under the Act, the Department may first apply the amount thereof against any amount of tax or penalty due under the Act from the person entitled to such credit or refund. For this purpose, if proceedings are pending to determine whether any tax or penalty is due under the Act from such person, the Department may withhold issuance of the credit or refund pending the final disposition of such proceedings and may apply such credit or refund against any amount found to be due to the Department under the Act as a result of such proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled thereto.

c) If no tax or penalty is due and no proceeding is pending to determine whether such taxpayer is indebted to the Department for tax or penalty, the credit memorandum or refund shall be issued to the claimant; or (in the case of a credit memorandum) the credit memorandum may be assigned and set over by the lawful holder thereof,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULEMAKING

subject to reasonable rules of the Department, to any other person who is subject to the Act, and the amount thereof shall be applied by the Department against any tax or penalty due or to become due under the Act from such assignee.

d) As to any claim filed hereunder with the Department on and after each January 1 and July 1, no amount of tax or penalty erroneously paid (either in total or partial liquidation of a tax or penalty under the Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited or refunded.

e) In case the Department determines that the claimant is entitled to a refund, such refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the Department will make such refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum). The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future, but receives a large credit memorandum that it therefore might take the claimant a long time to liquidate by using it to pay current taxes. In these instances, the claimant probably would have to sell the credit memorandum at a loss in order to realize anything from it within any reasonable period of time.

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hearings for Removal of Directors, Officers, Employees or Agents of a State Bank

- 2) Code Citation: 38 Ill. Adm. Code 900

- 3) Section Numbers:
- | | |
|---------|-------------------------|
| 900.10 | <u>Proposed Action:</u> |
| 900.20 | Amendment |
| 900.30 | Amendment |
| 900.70 | Amendment |
| 900.80 | Amendment |
| 900.90 | Amendment |
| 900.120 | Amendment |
| 900.130 | Amendment |
| 900.160 | Amendment |
| 900.200 | Amendment |
| 900.210 | Amendment |

- 4) Statutory Authority: Section 80 of the Illinois Banking Act [205 ILCS 5/80] and Section 5-1 of the Corporate Fiduciary Act [205 ILCS 620/5-1].

- 5) Complete Description of the Subjects and Issues Involved: Pursuant to Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6], the Commissioner of Banks and Trust Companies has the authority to remove directors, officers, employees or agents of corporate fiduciaries. Section 5-6 also provides that any affected person is entitled to a hearing which shall be held in accordance with the procedures established pursuant to Section 48 of the Illinois Banking Act [205 ILCS 5/48]. This Part contains those procedures. The proposed amendments to this Part clarify that these procedures apply to hearings involving state banks as well as corporate fiduciaries.

- 6) Will this proposed Rule replace an emergency Rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed Rule contain incorporations by reference? No

- 9) Are there any other proposed Rules pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons who desire to comment on this proposed rulemaking may submit their comments in writing no later than 45 days after the publication of this Notice to:

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED AMENDMENTS

Scott D. Clarke	Patrick F. Andre
Acting Commissioner	Division Counsel
Commissioner of Banks & Trust Companies	Commissioner of Banks & Trust Companies
500 East Monroe Street	310 South Michigan, Suite 2130
Springfield, IL 62701	Chicago, IL 60604
(217) 782-7966	(312) 793-2043

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small business affected: Small businesses are not affected by this rule.

- B) Reporting, bookkeeping or other procedures required for compliance: N/A

- C) Types of professional skills necessary for compliance: N/A

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for this rulemaking was not apparent in time for the most recent Agenda.

The full text of the Proposed Rule begins on the next page:

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER VII: STATE BANKING BOARD OF ILLINOIS

PART 900

HEARINGS FOR REMOVAL OF DIRECTORS, OFFICERS,
EMPLOYEES OR AGENTS OF A STATE BANK OR CORPORATE FIDUCIARY

Section

900.10 Applicability
 900.20 Definitions
 900.30 Request for a Hearing
 900.40 Hearing Officer
 900.50 Notice of Hearing
 900.60 Motions
 900.70 Answer to the Order of Removal
 900.80 Form of Pleadings
 900.90 Service
 900.100 Appearances
 900.110 Consolidation of Hearing Proceedings
 900.120 Intervention
 900.130 Authority of Hearing Officer
 900.140 Prehearing Conferences
 900.150 Practice by Telephone
 900.160 Subpoenas
 900.170 Discovery
 900.180 Evidence Depositions
 900.190 Conduct of a Hearing
 900.200 Evidence
 900.210 Record of Hearing Proceedings
 900.220 Briefs
 900.230 Hearing Officer's Findings of Fact and Conclusions of Law
 900.240 Board's Determination
 900.250 Construction of Rules

AUTHORITY: Implementing Section 48(7) of the Illinois Banking Act [205 ILCS 5/48(7)] and Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6] and authorized by Section 80(j) of the Illinois Banking Act [205 ILCS 5/80(j)].

SOURCE: Emergency Rule adopted at 10 Ill. Reg. 15672, effective September 11, 1986, for a maximum of 150 days; chapter number and Part number corrected at 10 Ill. Reg. 20328; adopted at 11 Ill. Reg. 8905 effective April 24, 1987; amended at 12 Ill. Reg. 17074, effective October 11, 1988; amended at 20 Ill. Reg. _____, effective _____.

Section 900.10 Applicability

This Part shall apply to hearings conducted under the jurisdiction of the State Banking Board of Illinois pursuant to Section 48(8) of the Illinois Banking Act

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED AMENDMENTS

[205 ILCS 5/48(8)] and Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6]. ~~Ill--Rev--Stat--1985--ch--17--par--359+8++~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.20 Definitions

For purposes of this Part:

"Act" means the Illinois Banking Act [205 ILCS 5] ~~Ill--Rev--Stat--1985--ch--17--par--381-et-seq++~~.

"Board" means the State Banking Board of Illinois.

"Commissioner" means the Office of the Commissioner of Banks and Trust Companies.

"Corporate Fiduciary" shall have the meaning ascribed to it in the Corporate Fiduciary Act [205 ILCS 620].

"Hearing Officer" means an attorney licensed in the State of Illinois who is the presiding official appointed by the Board to conduct a hearing.

"Party" includes the Commissioner, any person named in an Order of Removal and after the date of a Ruling permitting the State bank or corporate fiduciary to intervene, the State bank or corporate fiduciary affected by the Order of Removal.

"Person" means any director, officer, employee or agent of a State bank or corporate fiduciary.

"Respondent" means the person(s) named in the Order of Removal.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.30 Request for a Hearing

A request for a hearing before the Board pursuant to Section 48(7) of the Act shall be in writing and shall be received by the Board within ten (10) days after receipt of the Order of Removal.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.70 Answer to the Order of Removal

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED AMENDMENTS

- a) An answer to the Order of Removal under Section 48(7) (b) of the Act is not required unless the respondent seeks to contest such Order.
- b) If filed, an answer to the Order of Removal under Section 48(7) (b) of the Act shall be filed with the Board or its duly appointed hearing officer and the Commissioner within twenty (20) days after the day on which the Order of Removal is served upon the respondent.
- c) An answer shall contain an explicit admission, denial or appropriate response to each allegation contained within the Order of Removal.
- d) Allegations in the Order of Removal to which there is no response shall be deemed admitted.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.80 Form of Pleadings

- a) All pleadings shall clearly show the title and docket number of the proceeding in connection with which the pleadings are filed.
- b) All pleadings shall be typewritten on 8 1/2 x 11 inch paper.
- c) Three (3) copies of all pleadings shall be filed with the Board or its duly appointed hearing officer.
- d) One (1) of the three (3) copies of each pleading filed shall be signed by the party or by the attorney representing the party and shall contain the address and telephone number of the individual signing the pleadings.

- e) All pleadings required to be filed with the Board or its duly appointed hearing officer shall be sent by certified mail, return receipt requested, to the Board at 500 East Monroe Street #19-South Fifth-Street,--Room--100--Reisch--Building, Springfield, Illinois 62701-1532.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.90 Service

- a) Service of all pleadings shall be made upon every party of record by hand delivery or by certified mail, return receipt requested.
- b) Service upon the agent of a party shall be deemed service upon the party.
- c) Service of pleadings consistent with the Illinois Civil Practice Law [735 ILCS 5] (Rev. 1985) (Ch. 110, par. 2-101-et-seq) requirements for personal service shall be deemed compliance with this Section.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED AMENDMENTS

Section 900.120 Intervention

- a) Upon application by the State bank or corporate fiduciary affected by an Order of Removal, the Board or its duly appointed hearing officer shall, by written Ruling, permit such bank or corporate fiduciary to intervene in a hearing proceeding, if:

- 1) the Board or its duly appointed hearing officer finds that the representation of the State bank's or corporate fiduciary's interest is or may be inadequate; and
 - 2) the intervention would not delay the proceeding or prejudice the parties.
- b) All Petitions for Intervention shall be in writing and shall be served upon every party and the Board or its duly appointed hearing officer not later than ten (10) days prior to the date of the hearing.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.130 Authority of Hearing Officer

A hearing officer shall have all powers necessary to conduct a hearing including the power to:

- a) Administer oaths and affirmations;
- b) Direct and regulate the course of a hearing, set the time and place for the hearing and provide for the taking of testimony by deposition if necessary;
- c) Examine witnesses and direct witnesses to testify, limit the number of times a witness may testify and limit repetitious or cumulative testimony;
- d) Rule upon offers of proof and admit relevant evidence in accordance with Section 10-40 the Illinois Administrative Procedure Act [5 ILCS 100/10-40] (Rev. 1991) (Ch. 127, par. 10-40);
- e) Issue properly executed subpoenas that require testimony and the production of books, papers, accounts and documents; and
- f) Render proposed findings of fact and conclusions of law for review by the Board.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.160 Subpoenas

- a) Upon application to the Board or its duly appointed hearing officer by any party, the Board or its duly appointed hearing officer shall issue a subpoena for attendance of a witness having knowledge of relevant facts at a deposition or hearing and require the production of any relevant books, papers, accounts and documents in the course of and pursuant to any deposition or hearing under Section 48(7) (b) of the

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED AMENDMENTS

Act.

b) Every subpoena shall state the title and docket number of the hearing and shall command each person to whom it is directed to:

- 1) give testimony;
- 2) produce books, papers, accounts and documents at the time and place therein specified; or
- 3) do both (1) and (2) above.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.200 Evidence

The Board or its duly appointed hearing officer shall receive evidence which is admissible under Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40] ~~{Ill.-Rev.-Stat.-1991r-ch-127-par-1010-40}~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 900.210 Record of Hearing Proceedings

a) The Board or its duly appointed hearing officer shall appoint a licensed court reporter to make a stenographic transcript of all hearings.

b) The record in a hearing shall include:

- 1) The items listed in Section 10-35 of the Illinois Administrative Procedure Act [5 ILCS 100/10-35]. ~~{Ill.-Rev.-Stat.-1991r-ch-127-par-1010-35}~~;
- 2) The transcript of a hearing.

c) The cost of any copy of the transcript requested by any party to the proceeding shall be borne by such party.

d) The record shall be made available for examination by a party to the proceeding at the Commissioner's Springfield or Chicago office during regular officer hours.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED REPEALERS

1) Heading of the Part: Standards of Service Applicable to 9-1-1 Emergency Systems (General Order 207)

2) Code Citation: 83 Ill. Adm. Code 725

Section Numbers:	Adopted Action:
725.101	Repealed
725.102	Repealed
725.103	Repealed
725.201	Repealed
725.202	Repealed
725.203	Repealed
725.204	Repealed
725.205	Repealed
725.206	Repealed
725.301	Repealed
725.302	Repealed
725.303	Repealed
725.304	Repealed
725.401	Repealed
725.501	Repealed
725.502	Repealed
725.503	Repealed
725.601	Repealed
725.602	Repealed
725.603	Repealed
725.604	Repealed
735.605	Repealed
725.701	Repealed
725.702	Repealed

4) Statutory Authority: Implementing Section 10 of the Emergency Telephone System Act [50 ILCS 750/10].

5) Effective Date of Rulemaking: April 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: March 13, 1996

9) Notice of Proposal Published in Illinois Register: October 6, 1995 at Ill. Reg. 13663

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: None

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED REPEALERS

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? None required.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: With the adoption of new rules on this subject elsewhere in this issue of the *Illinois Register*, it is appropriate to repeal the old rules.

Conrad Rubinkowski
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, Illinois 62794-9280
(217) 785-8439

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Standards of Services Applicable to 9-1-1 Emergency Systems

2) Code Citation: 83 Ill. Adm. Code 725

3) Section Numbers:

725.100 Adopted Action:

725.101 New Section

725.105 New Section

725.200 New Section

725.205 New Section

725.210 New Section

725.215 New Section

725.220 New Section

725.225 New Section

725.300 New Section

725.305 New Section

725.400 New Section

725.500 New Section

725.505 New Section

725.600 New Section

725.605 New Section

725.610 New Section

725.615 New Section

725.620 New Section

725.700 New Section

725.800 New Section

725.805 New Section

725.810 New Section

725.APPENDIX A New Section

4) Statutory Authority: Implementing Section 10 the Emergency Telephone System Act [50 ILCS 750/10].

5) Effective Date of Rulemaking: April 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: March 13, 1996

9) Notice of Proposal Published in Illinois Register: October 6, 1995, at 19 Ill. Reg. 13632

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Table of Contents: Add Section 725.101
Section 725.100: Eliminate subsection (b).
Section 725.101: New Section added after agreement with JC&R.
Section 725.105: Add "(Note: Words importing...singular.)" at the end of the Section.
Section 725.800(a)(3): Subsection eliminated.

- 12) Have all the changes agreed upon by the agency and JC&R been made as indicated in the agreement letter issued by JC&R? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 725 was originally adopted by the Commission to implement the Emergency Telephone System Act by providing technical and operational standards for the development of local agency systems. Part 725 was adopted in 1979 and amended once in 1981. There have been a number of amendments to the Act since the last amendment of Part 725, and the telecommunication industry has undergone structural and technological evolution since the last amendment of Part 725. Given these changes, the Commission has repealed the old rules elsewhere in this issue of the Register and has adopted a new Part 725, so that the rules reflect both current law and the current state of the telecommunications industry.

- 16) Information and questions regarding these adopted rules shall be directed to:

Name: Conrad Rubinkowski
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217) 785-8439

The full text of the Adopted Rule begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 725

STANDARDS OF SERVICE APPLICABLE TO 9-1-1 EMERGENCY SYSTEMS

SUBPART A: GENERAL PROVISIONS

Section
725.100 Application of Part
725.101 Waivers
725.105 Definitions

SUBPART B: AUTHORIZATION TO OPERATE

Section
725.200 General Requirements
725.205 Tentative Plans
725.210 Final Plans
725.215 Order of Authority
725.220 Records and Reports
725.225 Auditing

SUBPART C: MANAGEMENT AND STAFFING

Section
725.300 Management Systems
725.305 Commission Liaison

SUBPART D: STANDARDS OF SERVICE

Section
725.400 General Standards

SUBPART E: ENGINEERING

Section
725.500 Telecommunications Carriers
725.505 Public Safety Answering Point

SUBPART F: OPERATIONS

Section
725.600 System Review
725.605 Written Operating Procedures
725.610 Call Handling Procedures

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

725.615 Electronic Communication Devices
725.620 Disaster Procedures

SUBPART G: FACILITIES

Section
725.700 Physical Security

SUBPART H: SURCHARGE

Section
725.800 Assessment of Surcharge
725.805 Surcharge Billing
725.810 Telecommunications Carrier Monthly Report to the Emergency Telephone System Board

APPENDIX A Telecommunications Carrier Monthly Report to ETSB

AUTHORITY: Implementing and authorized by Section 10 of the Emergency Telephone System Act [50 ILCS 750/10].

SOURCE: Adopted at 4 Ill. Reg. 2, p. 163, effective December 31, 1979; amended at 5 Ill. Reg. 888, effective January 9, 1981; codified at 8 Ill. Reg. 12188; Part repealed, new Part adopted at 20 Ill. Reg. 5335, effective January 1, 1996.

SUBPART A: GENERAL PROVISIONS

Section 725.100 Application of Part

This Part shall apply to all public agencies, public safety agencies, and telecommunications carriers in the State of Illinois except to the extent of any exemptions conferred by law.

Section 725.101 Waivers

- a) A public agency or a telecommunications carrier may file a petition pursuant to 83 Ill. Adm. Code 200 for a temporary waiver from compliance with the requirements of Sections 725.205(d); 725.210(e); 725.220(c); 725.400(a), (d)(3) and (f); 725.500(c), (h), (i), (j), (k), (o), (p) and (q); 725.505(a), (e), (g), (i), (m) and (y); 725.620(b); and 725.620(b), if the petitioner alleges that compliance with the provision is either technologically infeasible or that it is financially incapable of complying with the requirement. The petition must include a proposed schedule for compliance with the provision. In determining whether to grant a waiver from a specified requirement, the Commission shall consider the economic impact of compliance, costs and rate consequences (if applicable), and the effect of the waiver on the provision of emergency services.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- b) If granted, such waiver will be effective for a period of up to one year from the date of the order granting the waiver. A party seeking an extension of the waiver period must file a separate petition with the Commission. Any extension of the waiver period shall be for no longer than one year. A party may file and be granted more than one waiver and more than one extension of the waiver period.

Section 725.105 Definitions

In the interpretation of this Part, the following definitions shall be used.

"A' Links" - Message trunks capable of providing ANI connecting the serving central office of the 9-1-1 calling party and the designated 9-1-1 tandem control office.

"Access Line" - The connecting facility between a customer's premises network interface device and the local exchange carrier's facility that provides access to the switching network for local exchange and interexchange telecommunications service.

"Aid Outside Normal Jurisdiction Boundaries Agreement" - A written cooperative agreement entered into by all participating and adjacent agencies and public safety agencies providing that, once an emergency unit is dispatched to a request through a system, such unit shall render its services to the requesting party without regard to whether the unit is operating outside its normal jurisdictional boundaries.

"Alternate Routing" - Alternate routing allows 9-1-1 calls to be alternatively rerouted to another Public Safety Answering Point (PSAP) location in the case of overflow calls on the "B" link or PSAP failure.

"Audible Signal" - A buzzer, bell or tone device used to alert an individual that appropriate action is required.

"Automatic Alarm and Automatic Alerting Device" - Any device which will access the 9-1-1 system for emergency services upon activation and does not provide for two-way communication.

"Automatic Location Identification" or "ALI" - In an E9-1-1 system, transmission of the originated caller's service address.

"Automatic Number Identification" or "ANI" - Automatic display of the 9-1-1 calling party's number on the PSAP monitor.

"B' Links" - The special service circuits between the 9-1-1 tandem control offices and the PSAP.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Backup PSAP" - A Public Safety Answering Point which serves as an alternate to the primary PSAP for enhanced systems and is located at a different location than the municipality's/county's primary PSAP providing the service, which will accept overflow calls and calls that are rerouted due to "B"-link failure or because the primary PSAP is disabled.

"Basic 9-1-1" - A general term which refers to an emergency telephone system which automatically connects a person dialing the digits "9-1-1" to an established PSAP through normal telephone service facilities.

"Billing Concession" - A telecommunications carrier service where employees are offered services at discounted rates.

"Busy Hour" - The two consecutive half-hours each day during which the greatest volume of traffic is handled in the central office.

"Busy Tone" - An audible signal indicating a call cannot be completed because the called access line is busy. The tone is applied 60 times per minute.

"Call Box" - A device that is normally mounted to an outside wall of the serving telecommunications carrier central office and designed to provide emergency on-site answering by authorized personnel at the central office location in the event a central office is isolated from the PSAP.

"Called Party Hold" - A telephone service feature that enables the called party to maintain a connection, even if the calling party has hung up, on any circuit so equipped.

"Call Referral" - A 9-1-1 service in which the PSAP telecommunicator provides the calling party with the telephone number of the appropriate public safety agency or other provider of emergency services.

"Call Relay" - A 9-1-1 service in which the PSAP telecommunicator takes the pertinent information from a caller and relays that information to the appropriate public safety agency or other provider of emergency services.

"Call Transfer" - A 9-1-1 service in which the PSAP telecommunicator receiving a call transfers that call to the appropriate public safety agency or other provider of emergency services.

"Central Office" - A switching office/facility in a telephone system which provides service to the general public, having the capability of

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

terminating and interconnecting subscriber lines and/or trunks.

"Centrex-type Service" - A telecommunications carrier central office based service with characteristics similar to those of private branch exchange type systems. When making an emergency call from a Centrex phone, it is necessary to dial an outside access code, typically the digit 9, before dialing the 9-1-1 emergency number.

"Commission" - The Illinois Commerce Commission.

"Control Office" - The control office controls the switching of ANI and selective routing information to the appropriate PSAP. The control office serves as a tandem switch in the 9-1-1 network.

"Dedicated Direct Trunking" - An arrangement where a telephone line connection has no intermediate switching points between the originating central office and PSAP location. The facilities utilized in this arrangement may be either intra- or inter-exchange.

"Default Routing" - A feature which allows E9-1-1 calls to be routed to a designated default PSAP if the incoming E9-1-1 call cannot be selectively routed due to ANI failure, garbled digits, or other causes which prevent selective routing.

"Direct Dispatch" - A 9-1-1 service which provides for the direct dispatch by a PSAP telecommunicator of the appropriate unit upon receipt of a telephone request for such services and the decision as to the proper action to be taken.

"E9-1-1 Tandem Office" - A telecommunications carrier switching office or stand alone selective routing switch equipped with enhanced 9-1-1 service capabilities. This switch serves as an E9-1-1 tandem office for 9-1-1 calls from other local offices in the 9-1-1 service area.

"Emergency Call" - A telephone request for emergency services which requires immediate action to prevent loss of life, reduce bodily injury, prevent or reduce loss of property, and such other situations as are determined by local custom.

"Emergency Service Number" or "ESN" - An ESN is a three to five digit number representing a unique combination of emergency service agencies designated to serve a specific range of addresses within a particular geographical area.

"Emergency Telephone System Board" or "ETSB" - A board appointed by the corporate authorities of any county or municipality that provides for the management and operation of a 9-1-1 system within the scope of such duties and powers as are prescribed by the Emergency Telephone

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

System Act (ETSA). The corporate authorities shall provide for the manner of appointment, provided that members of the board meet the requirements of the statute.

"Enhanced 9-1-1" or "E9-1-1" - A general term which refers to an emergency telephone system with specific electronically controlled features such as AUI, ANI or Selective Routing, and which uses the master street address guide (MSAG) geographic files.

"Exempt Lines" - Exempt lines are lines other than those for which a 9-1-1 surcharge may be imposed under the criteria set forth in Section 15 of the ETSA [50 ILCS 750/15]. Exempt lines include, but are not limited to, telecommunications carrier official lines.

"Forced Disconnect" - A feature which allows the PSAP to release a telephone connection, even though the calling party has not been disconnected, to avoid caller jamming of the incoming trunks.

"Grade of Service" - The probability (P), expressed as a decimal fraction, of a telephone call being blocked. P.01 is the grade of service reflecting the probability that one call out of one hundred will be blocked.

"Idle Circuit Tone Application" - A feature which applies a distinctive tone toward the PSAP attendant to distinguish between calls that have been abandoned before the attendant answers and calls where the caller is unable to speak for some reason.

"Key Telephone System" - A telephone system, usually with a small number of lines and stations, in which each station functions as a switch and permits users a choice over the outgoing line on which to place a call.

"Local Exchange Carrier" or "LEC" - A telecommunications carrier under the Public Utilities Act that provides local exchange telecommunications services as defined in Section 13-204 of the Public Utilities Act [220 ILCS 5/13-204], except a telecommunications carrier that is owned or operated by one or more political subdivisions, public or private institutions of higher education or municipal corporations of this State.

"Local Loop" - A channel between a customer's network interface and its serving central office. The most common form of loop, a pair of wires, is also called a line.

"Logging Recorder" - A machine that records both sides of telephone and radio transmissions.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Master Street Address Guide" or "MSAG" - The computerized geographical file which consists of all streets and address data within the 9-1-1 system area. This database is the key to the selective routing capability of E9-1-1 systems. It is to match an originating caller to a specific answering point based on the address data. The MSAG may require updating after the initial file is established.

"Mechanical Dialer" - A device that either manually or remotely triggers a dialing device to access the 9-1-1 system.

"Network" - The aggregate of transmission systems and switching systems. It is an arrangement of channels, such as loops, trunks, and associated switching facilities.

"Network Connections" - A voice grade communication channel directly between a subscriber and a telecommunications carrier's public switched network, without the intervention of any other telecommunications carrier's switched network, which would be required to carry the subscriber's inter-premises traffic. The connection either:

is capable of providing access through the public switched network to a 9-1-1 system, if one exists; or

if no system exists at the time a surcharge is imposed under Section 15.3 of the Emergency Telephone System Act [50 ILCS 750/15.3], would be capable of providing access through the public switched network to the local 9-1-1 system if one existed.

"Network Segment" - A portion of the network in which there are no intermediate switching points. "A" links and "B" links are network segments.

"9-1-1 System" - The geographic area that has been granted an order of authority by the Commission to use "9-1-1" as the primary emergency telephone number.

"On-line Date" - A date that is agreed to by all parties as to when a 9-1-1 system is activated for the public.

"Order of Authority" - A formal order of the Commission which authorizes public agencies or public safety agencies to provide 9-1-1 service in a geographical area.

"Originating Switchhook Status Indication" - An audible and/or visual indication of the status of a calling party being held.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"Overflow" - A call or position used when a call is blocked or rerouted due to excessive traffic.

"Primary Point of Contact" - The entity designated by the system management as the contact point for the participating local exchange carrier(s).

"Private Branch Exchange" or "PBX" - A telephone switchboard with many stations not individually connected to the local exchange carrier switching network.

"PSAP" - Public Safety Answering Point, sometimes called a Center or 9-1-1 Center; the initial answering location of a 9-1-1 call.

"Public Agency" - The State, or any unit of local government or special purpose district located in whole or in part within this State, which provides police, firefighting, medical or other emergency services or has authority to do so.

"Public Safety Agency" - A functional division of a public agency which provides police, firefighting, medical or other emergency services.

"Ringback" - A feature used in conjunction with "Called Party Hold" that allows the PSAP telecommunicator to ringback the caller who has disconnected before the necessary emergency data has been obtained.

"Ringback Tone" - A tone returned to the caller to indicate that a central office is providing ringing current to the called party's circuit.

"Route Diversity" - Two or more separate routes of communication arranged to reduce the possibility that, in the event of facility damage or failure, there would be any interruption of communications.

"Secondary PSAP" - A location where a 9-1-1 call is transferred for dispatching purposes.

"Selective Routing" - A switching system which automatically routes calls to predetermined PSAPs, based on the location of the calling telephone number.

"Service Address" - The location of the primary use of the network connection or connections.

"Surcharge" - An amount levied by the corporate authorities of any municipality or county on billed subscribers of network connections for installing and maintaining an Enhanced 9-1-1 system.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

"System Management" - The ETSB that provides for the management and operation of a 9-1-1 system within the scope of such duties and powers as are prescribed by the Emergency Telephone System Act. If no ETSB is established, then those persons given the authority to operate the 9-1-1 system by the local public agencies.

"System Provider" - An entity providing 9-1-1 network or selective routing or database services.

"Tandem Trunking" - An arrangement whereby an E9-1-1 call is routed from a central office to the 9-1-1 tandem control office to the PSAP.

"TDD" - A telecommunications device for the deaf. See "TTY."

"Telecommunications Service" - Shall have the same meaning as defined in Section 13-203 of the Public Utilities Act [220 ILCS 13-203].

"Telecommunications Carrier" - Shall have the same meaning as defined in Section 13-202 of the Public Utilities Act [220 ILCS 13-202]. For the purpose of 9-1-1 service, this definition shall include telephone systems operating as mutual concerns.

"Telecommunicator" - A person who is trained and employed in public safety telecommunications. The term applies to complaint telephone operators, radio operators, data terminal operators or any combination of such functions in a PSAP.

"Terminal Equipment" - Telephone station apparatus.

"Transfer" - A feature which allows the PSAP telecommunicator to transfer E9-1-1 calls to a specific location or secondary PSAP.

"Trunk" - A circuit used to connect a call between central offices.

"TTY" - A teletypewriter, a device which employs graphic or braille communication in the transmission of coded signals through a wire or radio communication system.

"Uninterruptible Power Source" - An emergency power source which can detect any change in power line frequency or voltage and automatically compensates for these changes by supplying additional power or converting to an auxiliary power source, without any loss of voltage or frequency.

(Note: Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular.)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

SUBPART B: AUTHORIZATION TO OPERATE

Section 725.200 General Requirements

- a) All tentative and final plans for 9-1-1 systems shall be filed in compliance with this Part and the Emergency Telephone System Act [50 ILCS 750].
- b) Tentative plans shall be submitted to the Commission's 9-1-1 Emergency Telephone Section for review as detailed in Section 725.205(c) through (e).
- c) Final plans shall be formally submitted to the Commission for approval as detailed in Section 725.210(a) through (f) (See 83 Ill. Adm. Code 200, "Rules of Practice").
- d) A 9-1-1 system shall not become operational without an order of authority from the Commission.
- e) Modification of the boundaries of an existing system or of the participants in an existing system shall be reported to the Commission, as prescribed in Section 725.210(d). Where modifications would result in the addition of a public agency as a participant in an existing system and such public agency is not exempt by law from submitting a plan for approval, such participation is subject to Commission approval and shall be approved provided that the petitioner has complied with all requirements of this Part and applicable laws.
- f) Except for 9-1-1 systems, the outline of a 9-1-1 system must coincide with applicable telephone service area limits, which shall consist of the entire telephone exchange.
- g) *The Emergency Telephone System Board in counties passing referendums and the Chairman of the County Board in counties implementing a 9-1-1 system shall be responsible to insure that all areas of the county are served [50 ILCS 750/10.2].*
- h) Modification to an approved application or system other than the items listed in Section 725.200(e) should be submitted to the Commission's 9-1-1 Emergency Telephone Section in writing no later than 10 days after the change.

Section 725.205 Tentative Plans

- a) A local public agency proposing to operate a 9-1-1 system shall first hold an informational meeting. Such meeting may include:
 - 1) each public agency having jurisdiction in the exchange or exchanges of the proposed system;
 - 2) each public safety agency having jurisdiction in the exchange or exchanges of the proposed system;
 - 3) each IEC providing the exchange or exchanges in the proposed service area;
 - 4) recognized emergency medical planning groups, e.g., Area Wide Hospital Emergency Services (AHES);
 - 5) any other emergency service providers and planning agencies

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 6) any telecommunications carrier providing 9-1-1 related services. Such additional meetings as are necessary shall be held between the proposed served agencies and the telecommunications carrier serving the proposed 9-1-1 service area to determine the system design.
- c) Tentative plans shall consist of a narrative of the proposed system's operation and a completed "Application to Illinois Commerce Commission For the provision of 9-1-1 Service," consisting of the following exhibits:
 - 1) Exhibit 1: A map showing the boundaries of the proposed system;
 - 2) Exhibit 2: A map or maps showing the jurisdictional boundary of each system participant and adjoining public agencies and public safety agencies;
 - 3) Exhibit 3: A list of system participants showing the land area in square miles and the estimated population served in their jurisdictions, including their addresses, telephone numbers and form of dispatch;
 - 4) Exhibit 4: A list of the public agencies or public safety agencies adjacent to the proposed system boundaries, including their addresses and telephone numbers;
 - 5) Exhibit 5: A list of the involved LECs, their exchanges in the proposed system, prefixes involved, and type of 9-1-1 system as specified in Section 725.500(g);
 - 6) Exhibit 6: Identification of financial arrangements including revenues available for funding the 9-1-1 system;
 - 7) Exhibit 7: A summary of the anticipated implementation cost and annual operating cost of the proposed system which are directly associated with the 9-1-1 call handling process. Copies of contractual agreements between System Management and any telecommunications carriers shall be included;
 - 8) Exhibit 8: Call Handling Agreements: Copies of the proposed agreements between the PSAP and the public agencies and/or public safety agencies in a single system. Copies of the proposed agreements between PSAPs in adjacent systems or, in the absence of a PSAP, the public agencies or public safety agencies whose jurisdictional boundaries are contiguous. These agreements shall indicate the primary and secondary methods to be employed for notification of emergency calls received from requesting parties within their respective jurisdictions and shall include either direct dispatch, call referral, call relay, or call transfer;
 - 9) Exhibit 9: Aid Outside Normal Jurisdictional Boundaries: A copy of the proposed annual agreement between the PSAP management and all public agencies and/or public safety agencies in a single system and in different systems but whose jurisdictional boundaries are contiguous. This agreement shall provide that, once an emergency unit is dispatched in response to a request through the system by direct dispatch, call referral, call relay, or call transfer, such unit shall render its service to the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

requesting party without regard to whether the unit is operating outside its normal jurisdictional boundaries. A copy of both agreements shall be filed with the Chief Clerk of the Commission at the time the petition is filed; and

- 10) Exhibit 10: A completed checklist supplied by the Commission (completed to the extent possible in consideration of the tentative plan).

- d) A copy of the tentative plan shall be filed for review by the Commission no later than 120 days after implementation of the approved surcharge or the signing of a contract or letter of intent with system providers, whichever comes first, but no later than one year prior to the on-line date. A copy of the tentative plan shall also be provided to the telecommunications carriers providing service within the service area of the PSAP. The Commission's 9-1-1 Emergency Telephone Section shall review each tentative plan and provide an opinion to the originating agency within 120 days after receipt.

- e) Approval of tentative plans by the Commission's 9-1-1 Emergency Telephone Section shall be required prior to a final plan being submitted. Plans filed under Section 11 of the ETSA shall conform to minimum standards as established pursuant to Section 10 of the ETSA.

Section 725.210 Final Plans

- a) The petitioner may request a hearing waiver as outlined below. The Commission, however, shall hold such hearings to formally review the final plan and shall either approve or disapprove the plan. The hearing shall be waived if requested by the petitioner and if neither Commission staff nor any other party objects to the hearing waiver.

- b) The following procedures must be taken in requesting a waiver of the Commission's hearing process:

- 1) The waiver request shall be stated in the cover letter to the Chief Clerk and in the petition. Replacement language to be inserted as (1) in the petition shall be:

Review the final (or modified) plan based on the information submitted in the application and allow the parties involved to waive a hearing on the matter.

- 2) Publish a notice in local newspapers of general circulation at least 10 days prior to filing the application with the Commission. The notice shall appear in newspapers whose circulation covers all municipalities within the proposed system and those adjacent to the proposed system. A proof of publication from the newspapers shall be enclosed with the application.

- 3) Notify all adjacent agencies of the intent to file a plan with the Commission for a 9-1-1 emergency telephone system. This letter shall state petitioner's address and telephone number and the Commission's 9-1-1 Emergency Telephone Section address and

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

telephone number for purposes of additional information or objections to the plan. Copies of these letters shall be attached to the submitted plan.

- 4) An affidavit from the serving telecommunications carriers that all information contained in the application is correct. The affidavits must be signed and notarized and submitted with the petition.

- c) Final plans submitted to the Commission shall have the concurrence of their participants.

- d) Final plans shall consist of a narrative of the proposed system's operation and a completed "Application to Illinois Commerce Commission For the Provision of 9-1-1 Service" consisting of the following exhibits:

- 1) Exhibit 1: A map showing the boundaries of the proposed system;
2) Exhibit 2: A map or maps showing the jurisdictional boundary of each system participant and adjoining public agencies and public safety agencies;

- 3) Exhibit 3: A list of system participants, the land area in square miles and the estimated population served in their jurisdictions, including their addresses, telephone numbers and form of dispatch;

- 4) Exhibit 4: A list of the public agencies or public safety agencies adjacent to the proposed system boundaries, including their addresses and telephone numbers;

- 5) Exhibit 5: A list of the involved LECs, their exchanges in the proposed system, prefixes involved and type of 9-1-1 system as specified in Section 725.500(g);

- 6) Exhibit 6: Identification of the financial arrangements including revenues available for funding the 9-1-1 system;

- 7) Exhibit 7: A summary of the anticipated implementation cost and annual operating cost of the proposed system which are directly associated with the 9-1-1 call handling process. Copies of contractual agreements between System Management and any telecommunications carriers shall be included;

- 8) Exhibit 8: Call Handling Agreements: Copies of the signed agreements between the PSAP and the public agencies and/or public safety agencies in a single system. Copies of the signed agreements between PSAPs in adjacent systems or, in the absence of a PSAP, the public agencies or public safety agencies whose jurisdictional boundaries are contiguous. These agreements shall indicate the primary and secondary methods to be employed for notification of emergency calls received from requesting parties with their respective jurisdictions and shall include either direct dispatch, call referral, call relay, or call transfer;

- 9) Exhibit 9: Aid Outside Normal Jurisdiction Boundaries: A copy of the signed annual agreement between the PSAP management and all public agencies and/or public safety agencies in a single system and in different systems but whose jurisdictional

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

boundaries are contiguous. This agreement shall provide that, once an emergency unit is dispatched in response to a request through the system by direct dispatch, call referral, call relay, or call transfer, such unit shall render its service to the requesting party without regard to whether the unit is operating outside its normal jurisdictional boundaries. A copy of both agreements shall be filed with the Chief Clerk of the Commission at the time the petition is filed; and

- 10) Exhibit 10: A completed checklist supplied by the Commission.
- e) Final plans shall be formally submitted to the Commission for approval no later than six months prior to the planned on-line date.
- f) The Commission shall approve final plans when the petitioner has complied with the requirements of this Part and applicable laws.

Section 725.215 Order of Authority

System management of a proposed 9-1-1 system shall file a petition for an order of authority to operate a 9-1-1 system as detailed and described in its final plan. The final plan shall be attached to the petition and filed with the Commission in accordance with the Commission's Rules of Practice, 83 Ill. Adm. Code 200.

Section 725.220 Records and Reports

- a) The system management shall maintain such records as it considers necessary to document its operations and satisfy the requirements of interagency agreements. As a minimum, such records shall include:
 - 1) a log of major system operations;
 - 2) critical equipment outages; and
 - 3) records of telecommunications carrier database queries by system management.
- b) The records specified in subsection (a) of this Section shall be preserved for a minimum of one year.
- c) The system management shall be required to file with the Commission's 9-1-1 Emergency Telephone Section by January 31 the following items:
 - 1) the current 9-1-1 contact person for the 9-1-1 system;
 - 2) the current error ratio for the E9-1-1 database;
 - 3) the current surcharge being collected;
 - 4) the current makeup of the Emergency Telephone System Board;
 - 5) the current networking for the 9-1-1 system; and
 - 6) copies of the annual certified notification of continuing agreement.

Section 725.225 Auditing

The Commission shall have the authority to audit 9-1-1 systems to verify compliance with the Act and this Part.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

SUBPART C: MANAGEMENT AND STAFFING

Section 725.300 Management Systems

The form of management a system will use shall be determined by its system management. There may be joint powers, contractual, or a combination of management forms.

Section 725.305 Commission Liaison

Each 9-1-1 system shall designate an individual as the Commission liaison for the system. The Commission's Emergency Telephone Section shall be notified of any change in the name of this liaison and of any change in the telephone number or address within ten days after such change.

SUBPART D: STANDARDS OF SERVICE

Section 725.400 General Standards

- a) The digits "9-1-1" shall be the primary emergency telephone number within the system, but a public agency or public safety agency shall maintain a separate secondary seven digit emergency backup number for at least six months after the 9-1-1 system is in operation and shall maintain a separate number for non-emergency telephone calls.
- b) Database queries will only be allowed for purposes of dispatching or responding to 9-1-1 emergency calls or for database integrity verification as set forth in subsections (d)(3) through (5) of this Section.
- c) Prior to an initial database integrity verification, system management shall obtain a court order detailing the information which is to be disclosed and the reason for disclosure.
- d) The 9-1-1 database shall have the capability of allowing non-emergency database queries provided the following procedures are adhered to:
 - 1) The system management shall be responsible for providing a level of security and confidentiality to the database which will prohibit any persons the means to access the database on a random inquiry;
 - 2) Direct access to 9-1-1 database information will be under strict control and, where the hardware being used is compatible, a password will be assigned for access;
 - 3) Non-emergency queries shall be by telephone number only and as necessary for purposes of database integrity. Non-emergency queries in excess of 10 per 24-hour period will only be done with 2 or more days advance notice to the respective telecommunications carrier system administrator for scheduling purposes. Queries may be for the specific purpose of cross-checking information in the 9-1-1 database with other sources of information, including telephone and other

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

directories, maps, municipal database listings, etc.; and for verifying that database update information provided to the telecommunications carrier has indeed been posted and is correct. Queries will only be made on numbers that are present within the 9-1-1 system as identified in the Illinois Commerce Commission's order of authorization for the 9-1-1 system. On-site databases are exempt from telecommunications carrier advance notification requirements of this Section;

- 4) Information retrieved will be used exclusively for the maintenance, update, and verification of the 9-1-1 database. Any other use is expressly prohibited. The information is subject to strict non-disclosure agreements between the various telecommunications carrier and system management. All personnel associated in any way with the ETSB or the 9-1-1 system are bound by these agreements; and
- 5) Direct database queries shall not adversely affect the normal operation of the 9-1-1 system. Direct database queries shall be limited to off-peak times. Direct database queries shall be suspended during any incident which could possibly result in a number of calls from the public being made to 9-1-1. Direct database queries shall not be made if there is any known outage or impairment in the database system, including a database data link outage. Direct queries shall also be suspended if there is any abnormal lag or delay noticed in receiving responses to database queries, or if notified to cease queries by telecommunications carrier personnel. The telecommunications carrier shall treat notification of 9-1-1 system management of database query suspension as a priority. Where practicable, this notification by the telecommunications carrier to 9-1-1 system management shall be made not later than fifteen minutes after a confirmed incident or event which will cause database queries to be suspended.
- e) The system management shall be responsible for the compliance of these standards, overall management, security and coordination of the 9-1-1 system.
- f) Upon a written request of the system management, the LECs shall provide within fourteen working days a report to assist in the validation of the accuracy of the 9-1-1 database. Before this report is delivered to the system management, the system management shall obtain a court order requiring the LECs to release the information. A single court order may be used to comply with this Section and subsection (c) of this Section.
- 1) This report shall include the following information:
 - A) telephone number - area code, prefix, and number in separate fields;
 - B) pilot number - single telephone number used to tie multiple numbers within a system together;
 - C) service address - including street name, street numbers,

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

suffix, directional, community name, state, zip code, and location and/or descriptive information, including intersection if MSAG indicates an intersection, in separate fields;

- D) billing address - if different than the service address, in separate fields, to be provided on a telephone number only basis pursuant to procedures defined by the telecommunications carrier and the system management. Billing address information shall be subject to non-disclosure agreements;
- E) name - first, last, and middle names or initials in separate fields;
- F) date service was initiated - the month, day, and year that service was initiated in separate fields. If this information is not available, the date reflecting the most current service order activity may be provided instead;
- G) type of service - residential, business, coin, etc.;
- H) PBX/Centrex Extensions/Station Numbers - identify those numbers that are part of a PBX/Centrex system where such information is available;
- I) surcharge status - where such information is available, the report shall identify those lines on which a surcharge is being collected and the date on which the collection was initiated. Identify those lines on which no surcharge is being collected and the reason for each exemption, including telecommunications carrier lines, in separate fields;
- J) Emergency Service Number (ESN) - appropriate ESN, if assigned, is to be made available only from the primary telecommunications carrier providing database development and routing services.
- 2) This report may be requested in writing, at a maximum, on a monthly basis. Information will be gathered from service order activity from the previous month. The information in this report is considered proprietary and shall be used exclusively for validating the accuracy of the 9-1-1 database. This report will be delivered in only ASCII or D-Base III format. It will not be delivered in paper format. There will be a charge for this report, which will be a tariffed item by each telecommunications carrier.

SUBPART E: ENGINEERING

Section 725.500 Telecommunications Carriers

- a) A 9-1-1 telecommunications service provides a terminating only service which connects a person who has dialed the universal emergency service code 9-1-1 to the PSAP assigned to that trunk group. Consistent with the language contained in subsection (c) of this Section, 9-1-1

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

telecommunications service shall be provided through either dedicated direct trunking or tandem trunking.

- b) Each telecommunications carrier shall file tariffs under Section 9-102 of the Public Utilities Act [220 ILCS 5/9-102] for 9-1-1 Telecommunications Service to be applied to all services peculiar to 9-1-1 installations.

- c) Dedicated direct trunking shall be considered to be the standard method of providing incoming 9-1-1 circuits. Incoming trunks shall initially be designed assuming a minimum offered load of 1.00 CCS (expected traffic load) per 1000 main stations to be served, or a minimum of two trunks, whichever is higher. Within 6 months of the on-line date, each trunk group shall be re-evaluated and maintained to assure 99% completion of calls placed to 9-1-1 during the average busy hour of the average busy day, or a minimum of two trunks, whichever is higher. In the event there is a host/remote central office configuration, additional trunks should be added in either a separate trunk group from each host/remote or consolidated trunk groups based on cost and engineering considerations. Each trunk group should be sized to deliver calls to the selective routing switch being engineered in such a manner that will meet or exceed a p.01 grade of service.

- 1) If dedicated direct trunking is not available from a remote switch, either to the host office or to the 9-1-1 control office serving the PSAPs, use of the umbilical for 9-1-1 will be allowed from the remote to the host. When direct remote trunking is available, dedicated trunk groups shall be provisioned directly from the remote switch.

- 2) Alternative incoming 9-1-1 trunking methods may be utilized by the PSAP if technology and/or local telecommunications facilities can be designed and implemented. The quantity of trunks and related switching components in the telephone network shall be engineered in accordance with good engineering practices and the applicable Commission Standards of Service specified for the interoffice and intertoll network to ensure completion of calls placed to 9-1-1 during the average busy hour of the average busy day. A detailed description of the trunking method to be used must be included in tentative 9-1-1 plans. The approval by the Commission's 9-1-1 Emergency Telephone Section of alternative incoming 9-1-1 trunking methods shall be required by the petitioner prior to submitting the final application.

- d) All 9-1-1 circuits shall be arranged for one way incoming only service to the PSAP. Outbound dialing on 9-1-1 circuits is prohibited.

- e) Telecommunications carriers shall use the Common Language Circuit Identifier "ES" in identification of 9-1-1 telecommunications service "A" link trunks and the circuit identifier "EMNC" shall be used for "B" link circuits to prevent confusion with other special services.

- f) Coin-free dialing shall be provided from all coin telephones within an exchange with 9-1-1 service. Telephone companies shall notify all

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

non-telecommunications carrier providers of 9-1-1 service in the system.

- g) "9-1-1 Telecommunications Service" may be of two types: Basic or Enhanced 9-1-1 or E9-1-1.

- 1) Consistent with the language contained in subsections (c) and (d) of this Section, Basic 9-1-1 telecommunications service shall be provided through either dedicated direct trunking and/or tandem trunking. The features associated with the dedicated direct trunking service shall be according to the following format types:

- A) Type #1 - This is the most basic configuration available, and provides:
- i) no per-call charge,
 - ii) loop-type ringdown signaling toward PSAP,
 - iii) ringback tone to caller, and
 - iv) transmission path for communication between the caller and the PSAP.

- B) Type #2 - This configuration provides all the features of the Type #1 circuit with the following options:

- i) called party hold,
- ii) forced disconnect,
- iii) idle circuit tone application, and
- iv) originating Switchhook Status Indication contingent on the installation of appropriate terminal equipment at the PSAP.

- C) Type #3 - This configuration provides all the features of the Type #1 and Type #2 circuits with the addition of ringback of the calling party on a held line.

- D) Type #4 - This configuration provides for optional features beyond those described in the configuration of Type #2 or Type #3. This type of Basic 9-1-1 also requires trunks capable of carrying ANI.

- 2) The E9-1-1 feature provides the capability to serve several PSAPs existing within the 9-1-1 service area with tandem trunking through the E9-1-1 tandem office. The main characteristic of E9-1-1 service is the capability of the E9-1-1 tandem office to selectively route a 9-1-1 call originating from any station in the 9-1-1 service area to the correct primary PSAP. The features associated with tandem trunking in an E9-1-1 System may include the following:

- A) selective routing;
- B) default routing;
- C) alternate routing;
- D) central office transfer;
- E) ANI; and
- F) ALI.

- h) The transmission grade of service on 9-1-1 circuits using inter-exchange facilities shall be at least equivalent to the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

transmission grade of service specified in 83 Ill. Adm. Code 730.520 dealing with interoffice transmission objectives.

- i) The transmission grade of service for the intra-exchange loop portion of any 9-1-1 circuit shall be at least equivalent to the transmission grade of service specified in 83 Ill. Adm. Code 730.525 dealing with local loop transmission objectives.

- j) When all 9-1-1 circuits are busy in the originating central office, the switching facility, where equipped to provide the function, shall route the caller to an announcement or busy tone. When an all-trunks busy situation occurs in an intermediate switching facility, that machine shall, where equipped, route the caller to an appropriate backup answering location, announcement, or busy tone.

- k) All telecommunications carriers shall arrange for each of their switching offices to accept the 9-1-1 code no later than two years after a referendum has passed or the signing of a contract or letter of intent in the area that is served by that switching office. When the 9-1-1 code is dialable in a switching office but not providing service, the caller shall receive either live or mechanical intercept service.

- l) No circuits associated with a 9-1-1 system shall be opened, grounded, short circuited, or tested in any manner until maintenance personnel have obtained release of the affected circuits from the appropriate PSAP personnel. Telecommunications carrier maintenance personnel will endeavor to advise PSAP personnel regarding the length of time that will be required to perform any work involving circuits associated with a 9-1-1 system.

- m) Each telecommunications carrier shall adopt practices to minimize the possibility of service disruption on all circuits associated with 9-1-1 service to a PSAP. Such practices will provide for circuit guarding at all terminations with protective devices that will minimize accidental worker contact. Such practices shall also contain procedures for physical identification of all 9-1-1 circuit appearances with special warning tags and/or labels, and identification of circuits in company records.

- n) Prior to a 9-1-1 system going on-line, each telecommunications carrier is responsible for having in its records a contact number for each PSAP in the event of outage or failure of a 9-1-1 system.

- o) Except as otherwise provided in this Part, call boxes shall be a part of the 9-1-1 system. Each system shall be engineered and provisioned with call boxes to adequately serve a system in the event the central office is isolated from the control office or selective router. Call boxes shall only be provisioned to central offices and to those remote central offices that have the capability to stand alone and function when severed from the host central office. A high priority of attention shall be given to all trouble reports and requested restorals.

- p) Each telecommunications carrier shall adopt practices to notify a primary point of contact within a 9-1-1 system within 15 minutes after

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

a confirmed outage within the system and to also advise the primary point of contact as to the magnitude of the outage. If more than one 9-1-1 system is served out of a central office, the telecommunications carrier shall make notification to a primary PSAP within each 9-1-1 system affected.

- q) Each telecommunications carrier shall adopt practices to notify a primary point of contact within a 9-1-1 system within 15 minutes after the confirmed restoration of 9-1-1 services.

Section 725.505 Public Safety Answering Point

- a) All 9-1-1 call answering equipment used by a PSAP must comply with applicable Federal Communications Commission rules, 83 Ill. Adm. Code 740, and local telecommunications carrier tariffs and must be compatible with the LEC's central office equipment and trunking arrangements.

- b) Each PSAP, after consultation with the LEC, shall designate an area of adequate size to be used by the LEC for termination of the company's lines and equipment.

- c) Each 9-1-1 circuit will indicate incoming calls by both audible and visible signals. Each outgoing circuit shall have a visual display of its status.

- d) Each 9-1-1 answering position shall have access to all incoming 9-1-1 lines and outgoing circuits peculiar to its zone of responsibility.

- e) Call transfer equipment shall be designed to achieve transfers with at least 99.9% completion. (This may require the use of dedicated direct trunking toward the responding agency.) At such time as the telecommunicator verifies that the transfer has been completed and the telecommunicator's services are no longer required, the telecommunicator may manually release himself from the call, provided that the telephone equipment is so designed. A 9-1-1 system should be designed so that a call will never be transferred more than once.

- f) Each PSAP shall have an operational teletypewriter (TDD/TTY), and all PSAP personnel shall be trained in its use. A portable will be held in reserve per 9-1-1 system to replace any malfunctioning TDD/TTY.

- g) Each PSAP shall have at least one overflow answering position to handle those circumstances when the call volume exceeds the capability of the primary telecommunicator position. This position must have the capability of being answered by a trained PSAP telecommunicator and be capable of receiving the Enhanced 9-1-1 features if it is a participant in an Enhanced 9-1-1 system. Supervisory positions may be utilized to satisfy this requirement only if the position will be answered by emergency trained personnel. Overflow calls shall be routed to a backup PSAP except as provided for in subsection (i) of this Section.

- h) System management shall provide continuous and uninterrupted operation to the persons within the system's boundaries 24 hours per day.

- i) Backup PSAP

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 1) Each 9-1-1 system shall have a backup PSAP. A backup PSAP shall meet the same standards as the primary PSAP except as provided for in subsections (i)(2) and (3) of this Section.
- 2) In a county 9-1-1 system with less than 15,000 billable access lines, where the county has demonstrated that the requirements of subsections (g) and (h) of this Section would place an undue financial burden upon the system, a full feature backup PSAP does not have to be maintained. For those systems, the backup PSAP requirement may be met by one of the following:
 - A) An unattended PSAP shall have:
 - i) the capability to provide 9-1-1 service;
 - ii) the communication equipment necessary to dispatch emergency services;
 - iii) a backup power supply; and
 - iv) the capability to be immediately activated with authorized personnel.
 - B) Call Box devices only if:
 - i) the 9-1-1 system has five or fewer LEC central offices;
 - ii) system management has provided the communication equipment necessary to dispatch emergency services; and
 - iii) they can be immediately activated with authorized personnel.
- 3) 9-1-1 systems with fewer than 15,000 billable access lines that have two or more PSAPs shall meet the standards as outlined in subsections (g), (h), and (i) of this Section. 9-1-1 systems operating under this exemption should, as funds become available, upgrade their backup PSAP capability to meet those standards as specified in subsections (g), (h), and (i) of this Section. When a 9-1-1 system starting with fewer than 15,000 billable access lines increases its billable access lines to 15,000 for a period of 1 year, it shall upgrade to meet the standards as specified in subsections (g), (h), and (i) of this Section.
- j) PSAP telecommunications shall be trained in emergency dispatch procedures as specified by system management to fulfill the responsibilities of their position.
- k) System management shall provide for the installation of a master logging recorder of adequate capacity to record both sides of a conversation of each incoming 9-1-1 call and any radio transmissions relating to the 9-1-1 call and its disposition. Such recordings shall have the time of each event noted. System management may elect to record on a circuit-by-circuit basis or by way of the telecommunicator's position.
- l) System management shall ensure that each PSAP maintains an archive of the tapes for a minimum of thirty days without recirculation of any tape.
- m) In order for a 9-1-1 plan to be approved, the facility selected for

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- the primary PSAP, backup PSAP, and, where instituted, a secondary PSAP, must be equipped with an emergency back-up power source capable of supplying electrical power to serve the basic power requirements of the PSAP, without interruption, for a minimum of four hours.
- n) Where sophisticated telephone equipment or customer premise equipment is implemented and which is not tolerant of power fluctuations or interruptions, and is vital to the PSAP's operation, an uninterruptible power source shall be installed at all PSAP locations.
 - o) In some instances, the system management may desire to have route diversity for its telephone circuits. The LEC serving the PSAP shall be responsible for providing the necessary information regarding the availability and cost of this service.
 - p) Each PSAP shall have at least one non-published telephone number to be provided to LEC operators, adjoining PSAPs and agencies to advise the PSAP of emergency messages.
 - q) System management shall adopt practices to ensure the following:
 - 1) When call box operation is necessary, authorized personnel shall respond to the call boxes who are trained in the operation of call box procedures;
 - 2) In instances where a call box is situated in split LEC exchanges (an exchange shared with more than one 9-1-1 system or jurisdiction), procedures shall be developed by the 9-1-1 systems involved to respond to the call box in instances of outages or disasters; and
 - 3) That when a primary point of contact is notified by telecommunications carrier personnel that an outage has occurred in a 9-1-1 system, the PSAP being notified must make notification to other PSAPs in the 9-1-1 system that is affected by the outage.
 - r) System management shall have the obligation of continual review using recognized administrative, engineering and database security procedures to determine and assure adequate service to the general public in accordance with the Act and this Part.
 - s) PSAP employees shall be instructed to be efficient and courteous in the handling of all calls and to comply with the provisions of all applicable federal and State laws in maintaining secrecy of communications.
 - t) Each PSAP shall insure that all 9-1-1 emergency calls are answered and handled without preference to the location of the caller.
 - u) Where LEC facilities permit, and assignable radio frequencies are available, wireless technology may be considered as an alternative to the call box system capability as required in Section 725.500(o) of this Part. System management shall be responsible for the identification and licensing of radio frequencies with the Federal Communications Commission; for costs for equipping or for converting any central office within the 9-1-1 system with wireless links that are equal to the number of land based trunks; and for any other equipment necessary to provide emergency communications via wireless communications.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

technology. When wireless technology is utilized, the wireless links will be activated in the event the central office is severed from the rest of the network. Wireless links shall be provisioned to all central offices that can stand alone and function when severed from the host central office. System management shall coordinate any conversion with the LEC. Approval of the Commission's 9-1-1 Emergency Telephone Section shall be required prior to implementation.

- v) Each PSAP should answer ninety percent of all 9-1-1 calls within ten seconds.
- w) All calls of an administrative or non-emergency nature shall be referred to the appropriate agency's published telephone number. After the referral is made, the telecommunicator shall release the circuit for public use.
- x) A current copy of this Part shall be on file in every PSAP.
- y) Call through testing is required prior to going on-line.
 - 1) Testing shall be for a minimum of two weeks for communities or multi-jurisdictional communities and two weeks for county systems that are served by live 9-1-1 end offices.
 - 2) Testing shall be:
 - A) for a minimum of:
 - i) Four weeks for communities or multi-jurisdictional communities; and
 - ii) Six weeks for county systems that are not currently being served 9-1-1 service; or
 - B) for a minimum of 80% of all access lines in a system for both communities or multi-jurisdictional communities and county systems.

SUBPART F: OPERATIONS

Section 725.600 System Review

- a) The ETSB where appointed shall act as the advisory or policy board for each 9-1-1 system. If there is no ETSB, each system shall establish an advisory or policy board which shall consist of not fewer than 5 members, one of whom may be a public member who is a resident of the local exchange service territory included in the 9-1-1 coverage area, at least three of whom shall be representatives of the 9-1-1 public safety agencies, including but not limited to police departments, fire departments, emergency medical services providers, and emergency services and disaster agencies and appointed on the basis of their ability and experience. Elected officials are also eligible to serve on the board. The board shall serve as the grievance committee for the resolution of disputes.
- b) Any participating agency which feels that adequate service is not being provided, in accordance with their negotiated agreement, may present its grievance before the advisory or policy board as identified in subsection (a) of this Section.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Section 725.605 Written Operating Procedures

- a) The system management shall develop and utilize written "Standard Operating Procedures" of its operations for use by its telecommunicators and supervisory personnel.
- b) The system management shall develop written procedures with each telecommunication carrier serving the PSAP establishing the methods and procedures to be followed when call tracing is required.
- c) The system management shall develop written procedures with the telecommunication carrier establishing the methods and procedures to be followed for the repair of equipment difficulties and for the restoration of service.

Section 725.610 Call Handling Procedures

- a) The system management shall insure that the disposition of each 9-1-1 emergency call is handled according to the agreements it has negotiated with its participants.
- b) In instances where a selected agency refuses a 9-1-1 request on the basis that a request is outside its jurisdictional boundaries, the telecommunicator shall make every effort to redetermine the appropriate responding agency and complete the disposition of the call.
- c) Once an agency dispatches a unit in response to a 9-1-1 request for emergency services and subsequently determines the address is outside of its jurisdiction, it shall render aid without regard to jurisdictional boundaries.

Section 725.615 Electronic Communication Devices

The installation of or connection to a telecommunications carrier's network of any automatic alarm, automatic alerting device, or mechanical dialer which causes the number 9-1-1 to be dialed and does not provide for two way communication to directly access emergency services is prohibited in a 9-1-1 system.

Section 725.620 Disaster Procedures

- a) Each PSAP management shall develop procedures providing for the continued operation of a 9-1-1 answer point in the event that critical functions of the PSAP are partially or totally disabled due to natural or man-made disasters.
- b) Each LEC's central office shall be equipped with call boxes to serve a 9-1-1 system if there is an outage or disaster. Once accessed by authorized personnel the call boxes are under direct control of system management. Call boxes shall be designed to meet the following:
 - 1) Have a minimum of two lines, with additional lines agreed to by system management and the LECs;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 2) The type of vault used to house the call box circuitry shall be weather resistant and have a locking capability;
- 3) The call boxes shall be provisioned with a transfer switch for use by authorized personnel to route transfer 9-1-1 calls from the network to the call box jacks;
- 4) The call boxes shall be provisioned with the lines bused out until the transfer switch is thrown to prevent calls from ringing into an unattended call box; and
- 5) The call boxes shall be equipped with an intrusion alarm at an additional cost to be assessed to the system management through the tariff process.

SUBPART G: FACILITIES

Section 725.700 Physical Security

- a) Critical areas of a PSAP, backup PSAP, and secondary PSAP shall have adequate physical security to prevent malicious disruption of service. PSAP personnel shall be isolated from direct public contact. Such critical areas shall, at a minimum, include all communications equipment, communications personnel, and mechanical equipment rooms that are vital to the operation of the PSAP.
- b) Wherever practical, service entrances for electric and telephone service shall be underground, at least to the respective utility's serving distribution facility. Sufficient protective measures shall be taken against vandalism and natural or manmade hazards at each PSAP.
- c) Access to the communications mechanical equipment rooms shall be restricted within the building by means of secured doors.

SUBPART H: SURCHARGE

Section 725.800 Assessment of Surcharge

- a) Any municipality or any county may impose a monthly surcharge on billed subscribers of network connections provided by telecommunications carriers engaged in the business of transmitting messages by means of electricity originating within the corporate limits of the municipality or county imposing the surcharge, provided that:
 - 1) The rate at which the surcharge shall be determined shall be established by passage of a referendum by the electors and passage of an ordinance imposing the surcharge by the municipality or county.
 - 2) The referendum requirement in subsection (a)(1) of this Section shall not apply to any municipality with a population over 500,000 and the surcharge may not exceed \$1.25 per network connection.
- b) The surcharge per month per network connection allowed by Section 15.3

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

of the Emergency Telephone System Act [50 ILCS 750/15.3] and upon passage of an ordinance by the municipality or county shall be collected by the telecommunications carrier and held in a special fund for the municipality, county or joint ETSB imposing the surcharge. The amount of surcharge collected by the telecommunications carrier shall be paid to the particular municipality, county, or joint ETSB not later than 30 days after the surcharge is collected, net any network or other sophisticated 9-1-1 system charges due the particular telecommunications carrier. The telecommunications carrier collecting the surcharge shall be entitled to deduct 3% of the gross amount of the surcharge collected to reimburse the telecommunications carrier for the expense of accounting and collecting the surcharge. For Centrex type service, each telecommunications carrier shall assess the surcharge equal to one network connection for every ten Centrex lines, except for those municipal or county lines exempt from surcharge under the Act. Each telecommunications carrier's tariff rates for nonrecurring and recurring services attributable to Centrex-type lines shall utilize the same ratio as utilized for surcharge.

- c) The surcharge shall only be imposed by a municipality, county or Joint ETSB for the purposes of providing Enhanced 9-1-1 service.

Section 725.805 Surcharge Billing

- a) The surcharge shall only be applied to those in-service network connections as defined in Section 725.105.
- b) Trunks and/or lines supporting the following types of service shall be billed a 9-1-1 surcharge:
 - 1) Centrex-type service (billed as described in Section 725.800(b));
 - 2) Dormitory service;
 - 3) Hospital service;
 - 4) Hotel/motel service;
 - 5) Pay telephones as defined in 83 Ill. Adm. Code 771;
 - 6) PBX;
 - 7) Semi-public coin;
 - 8) Services on temporary suspension;
 - 9) Billing concession;
 - 10) Key telephone systems;
 - 11) Business lines; and
 - 12) Residential lines.
- c) The surcharge may also be assessed to other billed subscribers of network connections if and to the extent permitted under Section 15.3 of the ETSA.

Section 725.810 Telecommunications Carrier Monthly Report to the Emergency Telephone System Board

Each telecommunications carrier shall provide to the ETSB, PSAP, or jurisdiction a detailed monthly listing of the number of network connections,

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

the number of Centrex-type lines in the 9-1-1 or proposed system to assist the jurisdiction in determining the line count for planning and projecting revenues and costs for the 9-1-1 or proposed system. See Appendix A of this Part. The listing shall not contain information which the telecommunications carrier determines to be confidential.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Section 725.APPENDIX A Telecommunications Carrier Monthly Report to ETSA

Local Exchange Carrier Name: _____

Remittance for (Month/Year): _____

Total Number of Access Lines: _____

	Number	Rate	Revenues
Residential Lines	_____	_____	_____
Basic Business Lines	_____	_____	_____
Pay Phone Lines	_____	_____	_____
Centrex/PBX Lines Billed	_____/____	_____	_____/____
Centrex/PBX Lines Not Billed	(____/____)	_____	_____
Exempt Lines	(____)	_____	_____
TOTALS	_____	_____	_____

Date Prepared _____

Originator _____

Telephone Number _____

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Adopted Action:
130.120 Amendment
- 4) Statutory Authority: 35 ILCS 120
- 5) Effective Date of Amendment(s): March 26, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 26, 1996
- 9) Notice of Proposal Published in Illinois Register: October 20, 1995, 19 Ill. Reg. 14752
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: In line 280, changed "of" to lower case; in line 352 changed semicolon to period; in line 363 changed period to semicolon; in lines 365-366, struck ". However, these local taxes may be reimposed on this otherwise."; in line 392 deleted "et seq."; in line 407 changed "See" to lower case; in lines 470 and 478 changed "of" to "after"; in lines 448 and 474, deleted duplicative comma and deleted lines 483-493 .
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
130.501	Amendment	12/15/95, 19 Ill. Reg. 16483
130.502	Amendment	12/15/95, 19 Ill. Reg. 16483
130.510	Amendment	12/15/95, 19 Ill. Reg. 16483
130.535	Amendment	12/15/95, 19 Ill. Reg. 16483
130.540	Amendment	12/15/95, 19 Ill. Reg. 16483

- 15) Summary and Purpose of Amendment(s): This rulemaking amends the Department's rule concerning the Retailers' Occupation Tax Act to provide an exemption (1) for sales of semen used for artificial insemination of

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

livestock for direct agricultural production; (2) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, for sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area; and (3) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, for sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months of the disaster. Also provides the certification requirements for such sales.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
130.101 Character and Rate of Tax
130.105 Responsibility of Trustees, Receivers, Executors or Administrators
130.110 Occasional Sales
130.111 Sale of Used Motor Vehicles by Leasing or Rental Business
130.115 Habitual Sales
130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section
130.201 The Test of a Sale at Retail
130.205 Sales for Transfer Incident to Service
130.210 Sales of Tangible Personal Property to Purchasers for Resale
130.215 Further Illustrations
130.220 Sales to Lessors of Tangible Personal Property

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section
130.305 Farm Machinery and Equipment
130.310 Food, Drugs, Medicines and Medical Appliances
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol
130.321 Fuel Used by Air Common Carriers in International Flights
130.325 Graphic Arts Machinery and Equipment Exemption
130.330 Manufacturing Machinery and Equipment
130.335 Pollution Control Facilities
130.340 Rolling Stock
130.345 Oil Field Exploration, Drilling and Production Equipment
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section
130.401 Meaning of Gross Receipts
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410 Cost of Doing Business Not Deductible

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.415 Transportation and Delivery Charges
130.420 Finance or Interest Charges--Penalties--Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.445 Installation, Alteration and Special Service Charges
130.450 Motor Vehicle Leasing and Trade-In Allowances
130.455

SUBPART E: RETURNS

Section
130.501 Monthly Tax Returns--When Due--Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarterly Monthly Payments in Certain Instances
130.540 Returns on a Transaction by Transaction Basis
130.545 Registrants Must File a Return for Every Return Period
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555 Vending Machine Information Returns
130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section
130.601 Preliminary Comments
130.605 Sales of Property Originating in Illinois
130.610 Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section
130.701 General Information on Obtaining a Certificate of Registration
130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration
130.720 Separate Registrations for Different Places of Business of Same

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Taxpayer Under Some Circumstances

130.725 Display
 130.730 Replacement of Certificate
 130.735 Certificate Not Transferable
 130.740 Certificate Required For Mobile Vending Units
 130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section
 130.801 General Requirements
 130.805 What Records Constitute Minimum Requirement
 130.810 Records Required to Support Deductions
 130.815 Preservation and Retention of Records
 130.820 Preservation of Books During Pendency of Assessment Proceedings
 130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
 130.901 Civil Penalties
 130.905 Interest
 130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
 130.1101 Definition of Federal Area
 130.1105 When Deliveries on Federal Areas Are Taxable
 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
 130.1201 General Information
 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
 130.1301 When Lessee of Premises Must File Return for Leased Department

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.1305 When Lessor of Premises Should File Return for Leased Department
 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section
 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
 130.1410 Requirements for Certificates of Resale (Repealed)
 130.1415 Resale Number--When Required and How Obtained
 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
 130.1501 Claims for Credit--Limitations--Procedure
 130.1505 Disposition of Credit Memoranda by Holders Thereof
 130.1510 Refunds
 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section
 130.1601 When Returns are Required After a Business is Discontinued
 130.1605 When Returns Are Not Required After Discontinuation of a Business
 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
 130.1801 When Powers of Attorney May be Given
 130.1805 Filing of Power of Attorney With Department
 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section
 130.1901 Addition Agents to Plating Baths
 130.1905 Agricultural Producers
 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.1915	Stamps and Like Articles
130.1920	Auctioneers and Agents
130.1925	Barbers and Beauty Shop Operators
130.1930	Blacksmiths
130.1935	Chiropodists, Osteopaths and Chiropractors
130.1940	Computer Software
130.1945	Construction Contractors and Real Estate Developers
130.1950	Co-operative Associations
130.1951	Dentists
130.1955	Enterprise Zones
130.1960	Farm Chemicals
130.1965	Finance Companies and Other Lending Agencies - Installment Contracts
130.1970	- Repossessions
130.1975	Florists and Nurserymen
130.1980	Hatcheries
130.1985	Operators of Games of Chance and Their Suppliers
130.1990	Optometrists and Opticians
130.1995	Pawnbrokers
130.2000	Peddlers, Hawkers and Itinerant Vendors
130.2005	Personalizing Tangible Personal Property
130.2010	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2015	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2020	Sales by Teacher-Sponsored Student Organizations
130.2025	Exemption Identification Numbers
130.2030	Sales by Nonprofit Service Enterprises
130.2035	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2040	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2045	Physicians and Surgeons
130.2050	Picture-Framers
130.2055	Public Amusement Places
130.2060	Registered Pharmacists and Druggists
130.2065	Retailers of Clothing
130.2070	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2075	Sales and Gifts By Employers to Employees
130.2080	Sales by Governmental Bodies
130.2085	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2090	Sales of Automobiles for Use in Demonstration
130.2095	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2100	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2105	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2110	Sales to or by Banks, Savings and Loan Associations and Credit

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

130.2090	Unions
130.2095	Sales to Railroad Companies
130.2100	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2105	Sellers of Feeds and Breeding Livestock
130.2110	Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
130.2115	Sellers of Seeds and Fertilizer
130.2120	Sellers of Machinery, Tools and the Like
130.2125	Suppliers of Persons Engaged in Service Occupations and Professions
130.2130	Trading Stamps and Discount Coupons
130.2135	Undertakers and Funeral Directors
130.2140	Vending Machines
130.2145	Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
130.2150	Vendors of Meals
130.2155	Vendors of Memorial Stones and Monuments
130.2160	Vendors of Signs
130.2165	Vendors of Steam
130.2170	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2175	Veterinarians
130.2180	Warehousesmen

ILLUSTRATION A: Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19631, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 3366-1 effective MAR 26 1996.

SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of ~~of~~ intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to the vendor in connection with certifying to the vendor that the sale to such purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);
- e) which are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) which are isolated or occasional (see Section 130.110 of this

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
 - h) which are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older (see Section 130.2005 of this Part);
 - i) which are made to any governmental body (see Section 130.2080 of this Part);
 - j) of pollution control facilities (see Section 130.335 of this Part);
 - k) of fuel consumed or used in the operation of ships, barges or vessels which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if such fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon such bordering river (see Section 130.315 of this Part);
 - l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
 - m) of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603] ~~§§§§-Rev.-Stat.-1989, ch-95-172-par-3-603~~, or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state;
 - n) of merchandise in bulk when sold from a vending machine for 1¢ (see Section 130.2135 of this Part);
 - o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (Title 42, USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
 - p) of farm chemicals (see Section 130.1955 of this Part);
 - q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
 - r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and which are designated mandatory service charges by vendors of meals provided that all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges which are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- s) of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser.⁷
- 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
- 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District. ~~However, these local taxes may be reimposed on this otherwise:~~
- t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease (see Section 130.305);
- u) of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale;
- v) of graphic arts machinery and equipment, including repair and replacement parts (see Section 130.325);
- w) a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act;
- x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois (see Section 130.2006);
- y) of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] (Ill.-Rev.-Stat.---1989---ch.---95-1/27 par. 3-300+);
- z) of personal property sold to an Illinois County Fair Association for use in conducting, operating or promoting the County Fair;
- aa) of personal property sold to any not-for-profit music or dramatic arts organization that establishes that it has received an exemption under

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- Section 501(c)(3) of the Internal Revenue Code (26 U.S.C.A. 501) and that is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis;
- bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (see Section 130.2008);
- cc) of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion;
- dd) of oil field exploration, drilling and production equipment costing \$250 or more (see Section 130.345);
- ee) of photoprocessing machinery and equipment, including repair and replacement parts (see Section 130.2000);
- ff) of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250 or more, including replacement parts and equipment costing \$250 or more (see Section 130.350);⁷ and
- gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for destination outside the United States (Section 2-5 of the Act) (see Section 130.321);⁷
- hh) of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit; and

jj) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

(Source: Amended at 20 Ill. Reg. 5366, effective
MAR 26 1996)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Action:
140.125 Amendment
- 4) Statutory Authority: 35 ILCS 115
- 5) Effective Date of Amendment(s): March 26, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 26, 1996
- 9) Notice of Proposal Published in Illinois Register: October 20, 1995, 19 Ill. Reg. 14765
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: In lines 109, 227 and 244, changes "sales" to lower case; in lines 118 and 120, deleted "1 et seq.;" in line 151 changed period to semicolon; in line 172 made "a" lower case; in line 187 struck the period; in line 220 struck "or"; in lines 228, 243, 253 and 277 changed the period to a semicolon; in lines 288 and 296 changed "of" to "after", and in lines 254 and 278 made "beginning" lower case.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
140.401	Amendment	12/15/95, 19 Ill. Reg. 16500
140.405	Amendment	12/15/95, 19 Ill. Reg. 16500
15) <u>Summary and Purpose of Amendment(s):</u>	This rulemaking amends the Department's rule concerning the Service Occupation Tax Act to provide an exemption (1) for sales of semen used for artificial insemination of livestock for direct agricultural production; (2) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years	

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

ending on or before December 31, 2004, for sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area; and (3) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, for sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months of the disaster. Also provides the certification requirements for such sales.

16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
(217) 782-6996

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 140

SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
140.101	Basis and Rate of the Service Occupation Tax
140.105	Registration of Servicemen
140.110	Presumption that Tax Applies (Repealed)
140.115	Occasional Sales to Servicemen by Suppliers (Repealed)
140.120	Meaning of Serviceman
140.125	Examples of Nontaxability
140.126	Exemption of Food, Drugs and Medical Appliances
140.130	Suppliers of Printers (Repealed)
140.135	Sales of Drugs and Related Items, to or by Pharmacists
140.140	Other Examples of Taxable Transactions
140.145	Multi-Service Situations

SUBPART B: DEFINITIONS

Section	
140.201	General Definitions

SUBPART C: BASE OF THE TAX

Section	
140.301	Cost Price
140.305	Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

Section	
140.401	Monthly Returns When Due -- Contents of Returns
140.405	Annual Tax Returns
140.410	Final Return
140.415	Taxpayer's Duty to Obtain Form
140.420	Annual Information Returns by Servicemen
140.425	Filing of Returns for Serviceman "Suppliers" by their Suppliers
	Under Certain Circumstances
140.430	Incorporation by Reference

SUBPART E: INTERSTATE COMMERCE

Section	
140.501	Sales of Service Involving Property Originating in Illinois

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

140.505 Sales of Service Involving Property Originating Outside of Illinois (Repealed)

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

Section
140.601 General Information

SUBPART G: BOOKS AND RECORDS

Section
140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section
140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

Section
140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

Section

140.1001 Payment of Tax to the Supplier
140.1005 Receipt to be Obtained for Tax Payments
140.1010 Payment of Tax Directly to the Department
140.1015 Itemization of the Tax by Suppliers
140.1020 Use of Bracket Chart
140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING -- MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section

140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

140.1201 When Lessee of Premises May File Return for Leased Department
140.1205 When Lessor of Premises Should File Return for Leased Department
140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

Section

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

140.1301 When Purpose of Serviceman's Purchase is Known (Repealed)
140.1305 When Purpose of Serviceman's Purchase is Unknown
140.1310 Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

140.1401 Claims for Credit -- Limitations -- Procedure
140.1405 Disposition of Credit Memoranda by Holders Thereof
140.1410 Refunds
140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

Section

140.1501 Procedures

SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section

140.1601 Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section

140.1701 General Information

AUTHORITY: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 39b30 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b30].

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended 5368 Ill. Reg. 1550, effective January 13, 1994; amended at 20 Ill. Reg. 5368, effective 5368 MAR 26 1996.

SUBPART A: NATURE OF TAX

Section 140.125 Examples of Nontaxability

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

The tax does not apply to:

- a) sales **Sales** of intangible personal property;
- b) sales of real property;
- c) sales of personal services as such;
- d) sales of tangible personal property which come within the protection of the Commerce Clause of the Constitution of the United States (see Subpart E of this Part);
- e) purchases of tangible personal property where the serviceman gives a valid exemption certificate to his supplier;
- f) the retail selling of tangible personal property which is taxable under the Retailers' Occupation Tax Act [35 ILCS 120] ~~§11-1-Rev-Stat--1987--ch-129--para-440-et-seq;~~ or the Use Tax Act [35 ILCS 105] ~~§11-1-Rev-Stat--1987--ch-129--para-439+1-et-seq;~~;
- g) a sale of tangible personal property for the purpose of resale apart from the purchaser's engaging in a service occupation;
- h) sales of tangible personal property as an incident to sales of service:
 - 1) to or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes (Section 2 of the Act);
 - 2) to or by any corporation, society, association, foundation or institution operated primarily for the recreation of persons aged 55 years or older which has no compensated officers or employees;
 - 3) to or by any governmental body (Section 2 of the Act);
 - 4) by any corporation, society association, foundation or institution organized and operated as a not-for-profit service enterprise for the benefit of persons aged 65 years of age or older, only to the extent of purchases of personal property not purchased by the enterprise for the purpose of resale by the enterprise (Section 2 of the Act);
 - 5) to a not-for-profit Illinois county fair association for use in conducting, operating or promoting the county fair (Section 2 of the Act);
 - 6) to any not-for-profit music or dramatic arts organization which has received an exemption under Section 501(c)(3) of the Internal Revenue Code and which is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis (Section 2 of the Act);
 - 7) In order to qualify for exemption, all the above listed organizations must have been issued an active exemption identification number by the Department;
- i) the sale, employment and transfer of such tangible personal property as newspaper and ink for physical incorporation into newspapers or magazines;
- j) the incorporation of tangible personal property into real estate by a construction contractor, which activity constitutes a taxable "use" under the Retailers' Occupation Tax Act and the Use Tax Act, rather than the carrying on of a service occupation;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- k) the sale, employment and transfer, as an incident to a sale of service, of such tangible personal property as pollution control facilities and low sulphur dioxide coal fueled devices;
- l) sales of stock tonics, serums and other medicinal products to veterinarians for retransfer as an incident to service in caring for farm animals;
- m) sales of sprays and farm chemicals as an incident to service by persons engaged in the service occupation of spraying crops or applying farm chemicals for others;
- n) sale of either new or used farm machinery, equipment or replacement parts transferred as an incident to a sale of service for use in production agriculture or for use in state or federal agricultural programs;
- o) a sale or transfer of machinery and equipment used primarily in the process of manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges or similar items of no commercial value on special order for a particular purchaser, when the machinery or equipment is produced by the seller thereof for the manufacturer or the manufacturer's lessor on special order in such a way as to have made the applicable tax a service occupation tax or service use tax, rather than retailers' occupation tax or use tax. (Section 2 of the Act). The transfer of standard or stock parts in the repair of qualifying exempt manufacturing machinery and equipment is not exempt;
- p) a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing or other processes or defined in Major Group 27 of the U.S. Standard Industrial Classification Manual (Section 2 of the Act);
- q) sales of oil field exploration, drilling and production equipment and individual replacement parts costing the purchaser \$250 or more;
- r) sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment and repair parts costing the purchaser \$250 or more;
- s) a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce (Section 2 of the Act);
- t) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce (Section 2 of the Act);

- u) *the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale* (Section 2 of the Act);
- v) *sales by teacher-sponsored student organizations affiliated with Illinois elementary and secondary schools; or*
- w) *sales of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States or any foreign country and bullion, which shall mean gold, silver or platinum in a bulk state with a purity of not less than 980 parts per 1,000. In no circumstance shall items sold as jewelry or mounted for wear as jewelry qualify for this exemption.*

- x) *sales of canned software or custom software are exempt. Sales of canned software in a service transaction would be subject to tax. Computer software means all types of software including operational, applicational, utilities, compilers, templates, shells and all other forms. Software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. The sale at retail or transfer of canned software intended for general or repeated use is taxable, including the sale of software which is subject to manufacturer licenses restricting the use or reproduction of the software. Tax applies to the entire charge made to the customer, including charges for all associated documentation and materials. Charges for updates and maintenance of software are considered to be sales of software. Charges for training, telephone assistance, installation and consultation are exempt if they are separately stated from the selling price of software.*

- y) *sales of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;*

- z) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased for donation, and a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

- aa) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.*

(Source: Amended at 20 Ill. Reg. 5366, effective

MAR 26 1998)

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Community Care Program

2) Code Citation: 89 Ill. Adm. Code 240

3) Section Numbers: Proposed Action:
240.810 Amendment

4) Statutory Authority: 20 ILCS 105/4.01(11) and 5.02

5) Effective Date of Amendment: March 22, 1996

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they expire: Emergency amendment is not set to expire prior to the 150 day period.

7) Date Filed in Agency's Principal Office: March 22, 1996

8) Reason for Emergency: Public Act 87-470, effective September 15, 1991, mandated the Illinois Department on Aging to apply the Illinois Department of Public Aid's (IDPA) spousal impoverishment provisions to the Community Care Program (CCP). Effective July 1, 1995, the Department released program instruction memoranda implementing the prevention of spousal impoverishment provisions. As the Department proceeded to implement these instructions, several problematic issues were discovered. Specific issues revealed that certain CCP clients and applicants had no alternative but to enter a nursing home if they were not eligible for CCP services under the prevention of spousal impoverishment guidelines. Such decisions are contrary to the Department's mandate to prevent or delay institutionalization of Illinois' elderly population.

The elimination of certain CCP criteria to meet the prevention of spousal impoverishment provisions will protect the health, safety and welfare of both applicants/clients and their families. In addition, this will also allow lower cost community and home based services to meet their needs, rather than compelling them to be otherwise inappropriately institutionalized.

9) A Complete Description of the Subjects and Issues Involved: The elimination of the potential of creating an environment where nursing home placement is the only alternative to in-home care is essential for both current CCP clients and potential applicants. Without this change in rule, CCP clients and applicants may be put into situations in which they will have no alternative but to be inappropriately institutionalized.

10) Are there any proposed amendments to this Part Pending? Yes

Section Numbers Proposed Action Illinois Register Citation

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

240.1010 Amendment February 16, 1996 (20 Ill. Reg. 2627)

11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.

12) Information and questions regarding these amendments shall be directed to:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue #100
Springfield, IL 62701-1789
(217) 785-3346

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the emergency amendments begins on the next page:

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 240

COMMUNITY CARE PROGRAM

SUBPART A: GENERAL PROGRAM PROVISIONS

Section	
240.100	Community Care Program
240.110	Department Prerogative
240.120	Services Provided
240.130	Maintenance of Effort
240.140	Program Limitations
240.150	Completed Applications Prior to August 1, 1982 (Repealed)
240.160	Definitions

SUBPART B: SERVICE DEFINITIONS

Section	
240.210	Homemaker Service
240.220	Chore-Housekeeping Service (Repealed)
240.230	Adult Day Care Service
240.240	Information and Referral
240.250	Demonstration/Research Projects
240.260	Case Management Service
240.270	Alternative Provider
240.280	Individual Provider

SUBPART C: RIGHTS AND RESPONSIBILITIES

Section	
240.300	Applicant/Client Rights and Responsibilities
240.310	Right to Apply
240.320	Nondiscrimination
240.330	Freedom of Choice
240.340	Confidentiality/Safeguarding of Case Information
240.350	Applicant/Client/Authorized Representative Cooperation
240.360	Reporting Changes
240.370	Voluntary Repayment

SUBPART D: APPEALS

Section	
240.400	Appeals and Fair Hearings
240.405	Representation
240.410	When the Appeal May Be Filed
240.415	What May Be Appealed

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

240.420	Group Appeals
240.425	Informal Review
240.430	Informal Review Findings
240.435	Withdrawing an Appeal
240.440	Examining Department Records
240.445	Hearing Officer
240.450	The Hearing
240.451	Conduct of Hearing
240.455	Continuance of the Hearing
240.460	Postponement
240.465	Dismissal Due to Non-Appearance
240.470	Rescheduling the Appeal Hearing
240.475	Recommendations of Hearing Officer
240.480	The Appeal Decision
240.485	Reviewing the Official Report of the Hearing

SUBPART E: APPLICATION

Section	
240.510	Application for Community Care Program
240.520	Who May Make Application
240.530	Date of Application
240.540	Statement to be Included on Application

SUBPART F: ELIGIBILITY

Section	
240.600	Eligibility Requirements
240.610	Establishing Eligibility
240.620	Home Visit
240.630	Determination of Eligibility
240.640	Eligibility Decision
240.650	Continuous Eligibility
240.655	Frequency of Redeterminations
240.660	Extension of Time Limit

SUBPART G: NON-FINANCIAL REQUIREMENTS

Section	
240.710	Age
240.715	Determination of Need
240.720	Clients Prior to Effective Date of this Section (Repealed)
240.725	Clients After Effective Date of this Section (Repealed)
240.726	Emergency Budget Act Reduction (Repealed)
240.727	Minimum Score Requirements
240.728	Maximum Payment Levels for Service
240.729	Maximum Payment Levels for Adult Day Care Service
240.730	Plan of Care

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

240.735 Supplemental Information
 240.740 Assessment of Need
 240.750 Citizenship
 240.755 Residence
 250.760 Furnishing of Social Security Number

SUBPART H: FINANCIAL REQUIREMENTS

Section
 240.800 Financial Factors
 240.810 Assets
 EMERGENCY
 240.815 Exempt Assets
 240.820 Asset Transfers
 240.825 Income
 240.830 Unearned Income Exemptions
 240.835 Earned Income
 240.840 Potential Retirement, Disability and Other Benefits
 240.845 Family
 240.850 Monthly Average Income
 240.855 Applicant/Client Expense for Care
 240.860 Change in Income
 240.865 Application For Medical Assistance (Medicaid)
 240.870 Determination of Applicant/Client Monthly Expense for Care
 240.875 Client Responsibility

SUBPART I: DISPOSITION OF DETERMINATION

Section
 240.905 Prohibition of Institutionalized Individuals From Receiving Community Care Program Services
 240.910 Written Notification
 240.915 Service Provision
 240.920 Reasons for Denial
 240.925 Frequency of Redeterminations (Renumbered)
 240.930 Suspension of Services
 240.935 Discontinuance of Services to Clients
 240.940 Penalty Payments
 240.945 Notification
 240.950 Reasons for Termination
 240.955 Reasons for Reduction or Change

SUBPART J: SPECIAL SERVICES

Section
 240.1010 Nursing Home Prescreening
 240.1020 Interim Services
 240.1040 Intense Service Provision

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

240.1050 Temporary Service Increase

SUBPART K: TRANSFERS

Section
 240.1110 Individual Transfer Request - Vendor to Vendor - No Change in Service
 240.1120 Individual Transfer Request - Vendor to Vendor - With Change in Service
 240.1130 Individual Transfers - Case Coordination Unit to Case Coordination Unit
 240.1140 Transfer of Pending Applications
 240.1150 Interagency Transfers
 240.1160 Temporary Transfers - Case Coordination Unit to Case Coordination Unit
 240.1170 Caseload Transfer - Vendor to Vendor
 240.1180 Caseload Transfer - Case Coordination Unit to Case Coordination Unit

SUBPART L: ADMINISTRATIVE SERVICE CONTRACT

Section
 240.1210 Administrative Service Contract

SUBPART M: CASE COORDINATION UNITS AND VENDORS

Section
 240.1310 Standard Contractual Requirements for Case Coordination Units and Vendors
 240.1320 Vendor or Case Coordination Unit Fraud/Illegal or Criminal Acts
 240.1330 General Vendor and CCU Responsibilities (Repealed)
 240.1396 Payment for Services (Repealed)
 240.1397 Purchases and Contracts (Repealed)
 240.1398 Safeguarding Case Information (Repealed)
 240.1399 Suspension/Termination of a Vendor or Case Coordination Unit (CCU)

SUBPART N: CASE COORDINATION UNITS

Section
 240.1400 Community Care Program Case Management
 240.1410 Case Coordination Unit Administrative Minimum Standards
 240.1420 Case Coordination Unit Responsibilities
 240.1430 Case Management Staff Positions, Qualifications and Responsibilities
 240.1440 Training Requirements For Case Management Supervisors and Case Managers

SUBPART O: PROVIDERS

Section

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

240.1510 Provider Administrative Minimum Standards
 240.1520 Provider Responsibilities
 240.1530 General Homemaker Staffing Requirements
 240.1535 Homemaker Staff Positions, Qualifications and Responsibilities
 240.1540 General Chore-Housekeeping Staffing Requirements (Repealed)
 240.1545 Chore-Housekeeping Staff Positions, Qualifications and Responsibilities (Repealed)
 240.1550 Standard Requirements for Adult Day Care Providers
 240.1555 General Adult Day Care Staffing Requirements
 240.1560 Adult Day Care Staff Qualifications
 240.1565 Adult Day Care Satellite Sites
 240.1570 Service Availability Expansion
 240.1575 Adult Day Care Site Relocation
 240.1580 Standards for Alternative Providers
 240.1590 Standard Requirements for Individual Provider Services

SUBPART P: PROVIDER PROCUREMENT

Section
 240.1600 Provider Contract
 240.1605 Procuring Provider Services
 240.1610 Procurement Cycle for Provider Services
 240.1620 Issuance of Provider Proposal and Guidelines
 240.1625 Content of Provider Proposal and Guidelines
 240.1630 Criteria for Number of Provider Contracts Awarded
 240.1635 Evaluation of Provider Proposals
 240.1640 Determination and Notification of Provider Awards
 240.1645 Objection to Procurement Action Determination
 240.1650 Classification of Provider Service Violations
 240.1655 Method of Identification of Provider Service Violations
 240.1660 Compliance Reviews of Contracted Provider Agencies
 240.1661 Provider Right to Appeal
 240.1665 Contract Actions for Failure to Comply with Community Care Program Requirements

SUBPART Q: CASE COORDINATION UNIT PROCUREMENT

Section
 240.1710 Procurement Cycle For Case Management Services
 240.1720 Case Coordination Unit Compliance Review

SUBPART R: ADVISORY COMMITTEE

Section
 240.1800 Community Care Program (CCP) Advisory Committee
 240.1850 Technical Rate Review Advisory Committee (Repealed)

SUBPART S: RATES

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

Section
 240.1910 Establishment of Fixed Unit Rates
 240.1920 Contract Specific Variations
 240.1930 Fixed Unit Rate of Reimbursement for Homemaker Service
 240.1940 Fixed Unit Rates of Reimbursement for Adult Day Care Service and Transportation
 240.1950 Adult Day Care Fixed Unit Reimbursement Rates
 240.1960 Case Management Fixed Unit Reimbursement Rates

SUBPART T: FINANCIAL REPORTING

Section
 240.2020 Financial Reporting of Homemaker Service
 240.2030 Unallowable Costs for Homemaker Service
 240.2040 Minimum Direct Service Worker Costs for Homemaker Service
 240.2050 Cost Categories for Homemaker Service

AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(1) of the Illinois Act on the Aging [20 ILCS 105/4.02 and 4.01(1)].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendments at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendments at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; amended at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendments at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendments at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendments at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendments at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; emergency amendments suspended at 16 Ill. Reg. 1744; emergency amendments modified in response to a suspension by the Joint Committee on Administrative Rules and reinstated at 16 Ill. Reg. 2943; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendments at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendments at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendments at 16 Ill. Reg. 4069, effective February 28, 1992, to

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendments at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. 9085, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10186, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12693, effective August 25, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16031, effective November 20, 1995; amended at 19 Ill. Reg. 16523, effective December 1, 1995; amended at 20 Ill. Reg. 1493, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days.

SUBPART H: FINANCIAL REQUIREMENTS

Section 240.810 Assets

EMERGENCY

- a) To be eligible to receive Community Care Program (CCP) services, an applicant/client shall not own interest in non-exempt assets having a combined value in excess of \$10,000, if:
- 1) unmarried; or
 - 2) married and: spouse-is-receiving-CCP-services-
 - A) spouse is receiving CCP services; or
 - B) spouse is in a nursing home; or
 - C) spouse does not reside on a permanent basis with applicant/client; or
 - D) spouse is potentially abusing the applicant/client.
- EXCEPTION: An applicant/client, who is married and the spouse does not receive CCP services, shall not own interest in non-exempt assets having a total in excess of the amount allowed for Medicaid eligibility.
- b) The value of non-exempt assets shall be considered in determining eligibility for the Community Care Program.
- c) All assets not specifically exempt are non-exempt.
- d) In order for the applicant/client to be eligible in accordance with the EXCEPTION under subsection (a) above, the allowable non-exempt assets, valued in excess of the Medicaid disregard ~~eligibility-limit~~, must be transferred to or for the sole benefit of the community spouse, but the amount of non-exempt assets transferred to the community spouse cannot result in the community spouse's non-exempt assets exceeding the Community Spouse Asset Allowance as adopted by

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENT

- e) the Illinois Department of Public Aid at 89 Ill. Adm. Code 120.379(d). When a client's non-exempt assets are greater than the allowable disregard as specified in subsection (a) above, consideration of non-liquid assets may be deferred as follows:
- 1) real property may be deferred from consideration for six 6 months;
 - 2) the client shall sign an agreement to dispose of the real property in excess of the allowable disregard within six 6 months from the date of the agreement; and
 - 3) the six 6 month period for disposition may be extended an additional six 6 months if the client fails to dispose of the asset (through no fault of his/her own) despite reasonable and diligent effort.

5388

(Source: Emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of March 19, 1996 through March 25, 1996 and have been scheduled for review by the Committee at its April 23, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
5/2/96	Department of Corrections, Secure Residential Youth Care Facility (20 Ill Adm Code 801)	1/26/96 20 Ill Reg 1371	4/23/96
5/3/96	Department of Revenue, Income Tax (86 Ill Adm Code 100)	1/26/96 20 Ill Reg 1489	4/23/96
5/3/96	Department of Natural Resources, Implementation Procedures for the Interagency Wetlands Policy Act (17 Ill Adm Code 1090)	10/13/95 19 Ill Reg 14238	4/23/96
5/3/96	Department of Natural Resources, Camping on Department of Conservation Properties (17 Ill Adm Code 130)	2/2/96 20 Ill Reg 1709	4/23/96
5/4/96	Capital Development Board, Repeal of Insurance and Surety Companies (44 Ill Adm Code 1050)	2/2/96 20 Ill Reg 1702	4/23/96
5/8/96	Department of Public Aid, Medical Payment (89 Ill Adm Code 140)	1/19/96 20 Ill Reg 1146	4/23/96
5/8/96	Secretary of State, Business Corporation Act (14 Ill Adm Code 150)	2/2/96 20 Ill Reg 1750	4/23/96
5/8/96	Secretary of State, General Not For Profit Corporations (14 Ill Adm Code 160)	2/2/96 20 Ill Reg 1768	4/23/96

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

5/8/96	Secretary of State, Limited Liability Company Act (14 Ill Adm Code 178)	2/2/96 20 Ill Reg 1773	4/23/96
5/8/96	Secretary of State, Revised Uniform Limited Partnership Act (14 Ill Adm Code 170)	2/2/96 20 Ill Reg 1779	4/23/96
5/8/96	Secretary of State, Uniform Commercial Code (14 Ill Adm Code 180)	2/2/96 20 Ill Reg 1787	4/23/96

PROCLAMATIONS

96-093

CHICAGO BUSINESS OPPORTUNITY DAYS

Whereas, the 29th Annual Chicago Business Opportunity Fair, which is of special interest to Chicago-based businesses, will be April 3-4, 1996; and Whereas, the fair will provide minority suppliers and purchasing personnel from major buying organizations with the opportunity to meet and exchange information about mutual buying and selling needs; and

Whereas, Joy A. Amundson, senior vice-president of Abbott Laboratories-Chemical and Agricultural Products Division, will be the chairperson of the fair's Sponsor's Committee; and

Whereas, the 29th Annual Chicago Business Opportunity Fair helps advance the year-round efforts of the sponsor of the fair, the Chicago Minority Business Development Council, Inc., an organization devoted to stimulating minority purchasing in Chicago; and

Whereas, the Minority Business Committee of the Chicago Minority Business Development Council will hold its 18th Annual Awards Program and Celebration on April 3, 1996, in honor of public and private sector representatives for their contributions to minority suppliers' growth and development;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 3-4, 1996, as CHICAGO BUSINESS OPPORTUNITY DAYS in Illinois.

Issued by the Governor February 28, 1996.

Filed by the Secretary of State March 22, 1996.

96-094

CROATIAN-AMERICAN ASSOCIATION DAY

Whereas, the 6th annual Gala Banquet of the Illinois Chapter of the Croatian-American Association will be held Saturday, March 2, 1996 at the Hyatt Regency O'Hare; and

Whereas, there are more than 400,000 Croatian-Americans living in the State of Illinois; and

Whereas, Croatian-Americans have played a significant role in the progress and development of Illinois; and

Whereas, Croatian-Americans proudly share their culture, heritage and traditions with Illinois; and

Whereas, we are grateful for their contributions to our state and individuals' lives; and

Whereas, the Croatian-American Association has worked to promote peace and has been instrumental in helping with humanitarian aid to thousands of refugees in Croatia and Bosnia; and

Whereas, the Croatian-American Association will gather in the name of peace and good will for mankind and celebrate their efforts at their annual banquet;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 2, 1996, as CROATIAN-AMERICAN ASSOCIATION DAY in Illinois.

Issued by the Governor February 28, 1996.

Filed by the Secretary of State March 22, 1996

96-095

WOMEN'S HISTORY MONTH

Whereas, women's history is filled with women whose lives and work have transformed American communities and the ideas of their day; and Whereas, women's history is also about numerous women who have lived their lives quietly as the center of their families; and

Whereas, these women represent many cultures, faiths, aspirations, and beliefs, contributing significantly to our society; and

Whereas, celebrating women's lives--full of courage, caring and accomplishments--is valuable for us all; and

Whereas, Women's History Month is being specially highlighted in Rockford, Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 1996 as WOMEN'S HISTORY MONTH in Illinois.

Issued by the Governor February 28, 1996.

Filed by the Secretary of State March 22, 1996.

96-096

FRITZ CAMPBELL DAY

Whereas, Frederick "Fritz" Campbell was born September 14, 1915, in Wenona; and

Whereas, he and his wife Merleta are the proud parents of a daughter, Susan; and

Whereas, Fritz Campbell is a devoted family man and has unfailingly served his country and the community; and

Whereas, he served in the United States Army as a staff sergeant from 1941 to 1945, and he was an alderman from 1968 to 1973; and

Whereas, he has served as Mayor of Wenona since 1973, as precinct committeeman for 26 years and as the Marshall County Chairman for 24 years; and

Whereas, in addition, he is a member of the Wenona Chamber of Commerce and the Wenona Cemetery board; and

Whereas, Fritz Campbell will retire after many years of dedicated service;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 4, 1996, as FRITZ CAMPBELL DAY in Illinois in honor of his retirement and his service to the community and the citizens of our state.

Issued by the Governor March 4, 1996.

Filed by the Secretary of State March 22, 1996.

96-097

ILLINOIS CRIME VICTIMS' RIGHTS WEEK

Whereas, the foundation of justice for all upon which our nation was built includes justice for victims of crime; and

Whereas, there are almost 44 million people in America affected by crime each year, with more than 10 million falling prey to violence; and

Whereas, crime victims have many psychological, financial and physical needs that merit our nation's attention and concern; and

Whereas, the accomplishments of victims' rights advocates in America are numerous, including more than 27,000 laws protecting victims' rights at the federal and state levels, and more than 8,000 agencies and organizations that

provide support and services to victims of crime; and

Whereas, a new day is dawning for victim justice in the United States, a day that begins with the sunrise of fair treatment, continues with participation and involvement in the justice process, and ends with a sunset of dignity and respect; and

Whereas, April 21-27, 1996, has been declared, "National Crime Victims' Rights Week" in America; and

Whereas, crime victims' rights, needs and concerns deserve the attention and support of the citizens of Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 21-27, 1996, as ILLINOIS CRIME VICTIMS' RIGHTS WEEK in Illinois and urge that individual and collective resources be committed to help victims of crime and support victim service programs not only during this special week, but throughout the year.

Issued by the Governor March 5, 1996.

Filed by the Secretary of State March 22, 1996.

96-098

A MAGIC NIGHT IN THE SECRET GARDEN

Whereas, the Caring Place at Loyola serves as a haven for families with seriously ill children who are receiving treatment at Loyola Medical Center; and

Whereas, funds to maintain the Caring Place at Loyola are being raised through the efforts of the McDonald's Owners of Chicagoland and Northwest Indiana; and

Whereas, more than 500 people have become volunteers for this project; and

Whereas, additional funds are necessary to support the operation of the house; and

Whereas, the Caring Place at Loyola is holding its annual dinner dance entitled, "A Magic Night in the Secret Garden"; and

Whereas, this dinner is a major fund-raiser to maintain the operations of this facility and should be commended;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 9, 1996, as A MAGIC NIGHT IN THE SECRET GARDEN in Illinois in honor of the efforts of the founders and volunteers of the Caring Place and offer my best wishes for a successful future on behalf of the citizens of Illinois.

Issued by the Governor March 6, 1996.

Filed by the Secretary of State March 22, 1996.

96-099

BANGLADESH DAY

Whereas, Illinois is home to several thousand Bangladeshi emigrants; and Whereas, the Bangladeshi community is part of the rich ethnic background of Illinois; and

Whereas, the Bangladesh Association of Chicagoland (BAC) was founded in 1980 to enhance Bangladeshi culture, to assist Bangladeshi emigrants, students, and visitors, in becoming familiar with the American way of life, and to develop and promote friendship and relationships among its members, the community, and other organizations; and

Whereas, the 25th Independence Day of Bangladesh will be celebrated in Illinois on March 30, a day which marks the country's realization of freedom in 1971 and honors those who gave their lives for freedom's cause;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 30, 1996, as BANGLADESH DAY in Illinois.

Issued by the Governor March 6, 1996.

Filed by the Secretary of State March 22, 1996.

96-100

STUDENT-ATHLETE DAY

Whereas, the student-athletes who have found the balance between academics and athletics should be looked at as role models for the youth of America; and

Whereas, former student-athletes have proven they are successful away from the game, having become many of this country's business, governmental, community and educational leaders; and

Whereas, perseverance, teamwork, self-discipline, commitment to a goal and the belief in racial, gender and ethnic equality are fostered by and promoted by both the academic and social pursuits of student-athletes; and

Whereas, it takes tremendous dedication and hard work for a student-athlete to successfully juggle schoolwork, athletic training and social activities; and

Whereas, athletes concentrate on the joy and skill of the game rather than just the victory; and

Whereas, thousands of America's youth use their athletic ability to allow them to obtain an education and develop skills to help them later in life; and

Whereas, coaches, parents and educators express the highest expectations for academic performance as well as athletic performance;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 6, 1996, as STUDENT-ATHLETE DAY in Illinois.

Issued by the Governor March 6, 1996.

Filed by the Secretary of State March 22, 1996.

96-101

VETERINARY MEDICAL EDUCATION WEEK

Whereas, activities of the veterinary medical profession benefit every person in the state, directly or indirectly; and

Whereas, veterinary medicine is concerned with education, research and disease control in both man and animals and it further serves citizens not only in private practice but also through many health-related programs; and

Whereas, Veterinary Medical Education Week, annually sponsored by the University of Illinois student chapter of the American Veterinary Medical Association, begins April 6 and culminates with an "Open House" at the College of Veterinary Medicine on the Urbana-Champaign campus;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 6-13, 1996, as VETERINARY MEDICAL EDUCATION WEEK in Illinois and urge Illinoisans to learn more about veterinary animal disease control and eradication programs and other services that contribute to our health and welfare.

Issued by the Governor March 6, 1996.

Filed by the Secretary of State March 22, 1996.

Vol. 20, No. 14

ISSUES INDEX

April 5, 1996

Rules acted upon during the quarter of January 1 through March 31, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 952 published in Issue 2 will be listed as 50-952-2. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us (Internet address).

PROPOSED

2-2500-2	23-2762-5	50-3119-11	77-300-1	89-240-7,14
2-2501-2	23-2763-5	50-5100-9	77-330-1	89-300-12
8-281-1	23-2764-5	50-6501-9	77-340-1	89-301-9
8-285-1	23-2765-5	56-355-9	77-350-1	89-312-2
8-505-1	23-2770-5	56-2520-13	77-370-1	89-335-2
11-205-6	23-2771-5	56-5300-1	77-390-1	89-336-12
11-208-6	23-2790-5	62-300-11	77-395-1	89-357-9
11-302-9	32-320-6	62-1700-5	77-597-13	89-358-9
11-410-5	32-401-9	62-1701-5	77-615-9	89-380-9
11-502-3	32-405-9	62-1761-5	77-665-13	89-385-9,14
14-135-11	32-410-6	62-1772-5	77-695-13	89-401-14
14-140-11	32-420-9	62-1773-5	77-750-5	89-402-14
14-145-11	32-505-1	62-1774-5	77-760-5	89-403-14
14-150-5	32-601-3	62-1778-5	77-820-3	89-404-14
14-160-5	35-218-1	62-1779-5	77-900-9	89-405-14
14-170-5	35-219-1	62-1780-5	77-1100-11	89-406-14
14-178-5	35-276-11	62-1783-5	77-1110-11	89-408-14
14-180-5	35-302-4	62-1784-5	77-1200-11	89-410-14
17-130-5	35-307-3	62-1785-5	77-1400-1	89-510-8
17-210-7	35-309-3	62-1795-5	80-310,10,11, 12,14	89-515-8
17-650-6	35-310-3	62-1800-5,11	80-1200-1	89-590-7
17-660-6	35-366-1	62-1816-5	80-1201-1	89-640-6
17-670-6	35-702-7	62-1817-5	80-1210-1	89-681-8
17-1538-3	35-703-7	62-1825-5	80-1220-2	89-682-14
17-2030-11	35-720-7	62-1840-5	80-1540-6	89-686-7
20-107-1	35-721-7	62-1843-5	80-2800-3	89-787R-14
20-525-5	35-722-7	62-1845-5	80-2850-9	89-885R-13
20-801-4	35-724-7	62-1847-5	80-3000-3,13	89-886-12
20-1265-7	35-725-7	62-1848-5	83-441-3	92-1001-4
20-1280-1	35-726-7	62-1850-5	86-100-4	92-1070-6
20-1282-10	35-728-7	68-800-1	86-130-13	92-2520-12
20-1520-7	35-733-7	68-1270-3	86-470-2	ADOPTED
23-350-10	38-310R-13	68-1285-8	86-500-14	2-1701-10
23-2700-5	38-315-13	68-1295-3	86-660-14	2-1900-i
23-2720-5	38-396-7	68-1330-7	86-750-13	2-1901-1
23-2730-5	38-610-9	68-1340-3	86-800-13	2-2175R-12
23-2731-12	38-900-14	68-1380-7	89-112-4,6,8	2-2175-12
23-2732-12	44-1-13	68-1400-12	89-114-11	2-5155-9
23-2733-5	47-110-3	68-1450-6	89-120-3	2-5155-9
23-2755-5	50-1409-8,9	68-1455-7	89-121-9	8-20-4
23-2760-5	50-2001-14	77-245-1	89-140-3,4,6,12	8-25-1
23-2761-5	50-2051-10	77-250-1	89-144-10,12	8-30-4
		77-280-1	89-148-9	8-40-4

I-1

8-55-4	68-1247-6	89-554-6
8-60-6	68-1470-11	89-1040-6
8-75-4	74-420	92-1030-9
8-85-1	74-440-2	92-1060-9
8-90-1	77-245-7	
8-100-4	77-250-7	
8-105-4	77-515-7	
8-110-1	77-694-8	
8-115-4	77-695-6	
8-116-1	77-750-7	
8-600-1	77-760-7	
11-100-2	77-905-6	
14-510-13	77-1110-12	
14-610-3	77-2070-7	
17-590-2	77-2080-7	
17-710-2	77-2510-12	
17-810-12	80-100-2	
17-2030-2	80-150-1	
17-2575-2	80-250-11	
23-175-8	80-302-8	
23-185-8	80-310-1	
23-575-8	80-1650-7	
23-610-3	83-725R-14	
23-3030-9	83-725-14	
35-183-7	86-130-11,14	
35-219-9	86-140-14	
35-303-8	86-200-2	
35-304-8	89-102-2	
35-365-2	89-104-3	
38-399-13	89-111-3	
38-1070-1	89-112-2,8	
41-170-12	89-113-2	
41-180-12	89-117-2	
47-120-12	89-120-13	
50-930-11	89-121-4	
50-952-2	89-140-3,11	
50-1102-1	89-146-11	
50-1104-1	89-148-2	
50-7020-9	89-160-3	
50-7030-10	89-170-2,11	
50-7030-9	89-240-4	
50-7100-9	89-301-12	
56-2765-11	89-302-12	
56-2770-1	89-304-4	
59-120-12	89-312-2	
68-590-4	89-335-2	
68-610-4	89-338-4	
68-1160-6	89-402-4	
68-1240-7	89-880-7	

EMERGENCY

14-135-1	14-140-1	14-145-1	20-1520-7	20-1280-1	56-2520-13	56-5300-1	77-245-1	77-250-1	77-280-1	77-300-1	77-330-1	77-340-1	77-350-1	77-370-1	77-390-1	77-395-1	77-615-9	77-900-9	80-310-10	86-100-4	89-114-11	89-240-14	89-301-9	89-312-2	89-335-2	89-336-12	89-385-9	89-402-9	92-1001-4	PEREMPT.	8-125-13	89-121-5
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ILLINOIS REGISTER
ADMINISTRATIVE CODE ORDER FORM

PLEASE USE THIS FORM FOR ALL ORDERS OR TO NOTIFY US OF CHANGE OF ADDRESS
ALL ORDERS ARE PAYABLE IN ADVANCE OR BY VISA OR *Discover*
CHECKS AND/OR MONEY ORDERS ARE PAYABLE TO SECRETARY OF STATE

MICROFICHE SETS OF THE ILLINOIS REGISTER @\$200.00 PER SET
__1977-1978 __1979 __1980 __1981 __1982 __1983 __1984 __1985 __1986
__1987 __1988 __1989 __1990 __1991 __1992 __1993 __1994

CUMULATIVE INDICES TO THE ILLINOIS REGISTER @\$1.00 each:
__1981 __1982 __1983 __1984 __1985 __1986 __1987 __1988 __1989

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